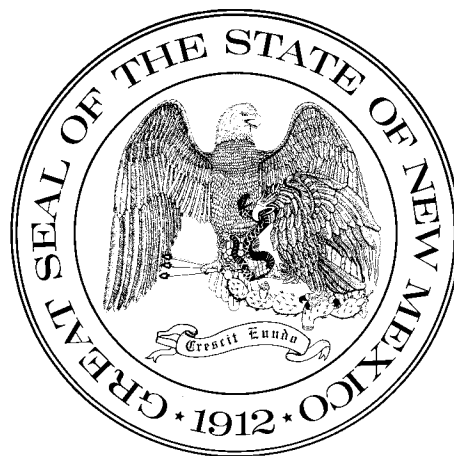


Final Report
of the
Subcommittee on Reorganization
to the
Legislative Council



New Mexico Legislative Council Service
November 25, 2003

November 25, 2003

Representative Ben Lujan, Co-chairman
Senator Richard M. Romero, Co-chairman
Legislative Council

Dear Messrs. Chairmen:

Your subcommittee on reorganization is pleased to submit its final report to the legislative council. The report includes the subcommittee's recommendations and summaries of subcommittee-sponsored legislation.

The subcommittee wishes to acknowledge the assistance of the secretary-designates and staffs of the Indian affairs department, the veterans' services department, the cultural affairs department and the aging and long-term care department.

If you or other members of the legislative council have questions concerning this report or the work of the subcommittee, please feel free to talk to me or other members of the subcommittee.

Sincerely,

J. PAUL TAYLOR
Representative, District 33
Chairman, Subcommittee on Reorganization

JPT:dmh

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Background of the Subcommittee

On June 20, 2003, Governor Richardson issued Executive Order 2003-022, which provided for the elevation of four state agencies to cabinet department status. Those agencies and their resulting departments were: the New Mexico office of Indian affairs to the Indian affairs department; the New Mexico veterans' service commission to the veterans' services department; the office of cultural affairs to the cultural affairs department; and the state agency on aging to the aging and long-term care department. Laws 2003, Chapter 403, which allowed the governor to elevate the departments by executive order, required that the legislature pass enabling legislation in the 2004 session or the executive order would be void.

The legislative council created the subcommittee on reorganization to monitor this major executive reorganization and to develop the necessary enabling legislation for each of the departments. In addition, the legislative council requested the subcommittee to look at last year's proposals to reorganize the public regulation commission.

Committee Membership

Members of the committee were:

Rep. J. Paul Taylor, chairman	Rep. James Roger Madalena
Sen. Bernadette M. Sanchez, vice chairwoman	Sen. Richard C. Martinez
Rep. Thomas A. Anderson	Rep. Nick L. Salazar
Rep. Donald E. Bratton	Sen. Leonard Tsosie
Sen. Dianna J. Duran	Rep. Teresa A. Zanetti
Sen. Raymond Kysar	

The committee was staffed by Jonelle Maison of the legislative council service.

Work Plan and Budget

The work plan approved by the legislative council expressed the subcommittee's plan to study the executive branch's organizational structure, including cabinet structures; to hear from the affected departments, their constituent boards and other interested persons on proposed organizational structures; and prepare bill drafts for introduction in 2004. Separate from the four departments' reorganization, the subcommittee proposed to consider the recommendations of the legislative council's 2002 subcommittee on the public regulation commission.

The legislative council approved a budget of \$11,640 and the committee expended \$9,466.

Meetings of the Subcommittee

The subcommittee, which was appointed in late July, held one organizational meeting and three substantive meetings. Meeting dates were August 12, September 3-4, October 14-15 and November 17.

At its September meeting, the subcommittee heard a staff report on the history of executive organizational structure and the first presentations on the four new departments, including comments from their boards and commissions and the public. In October, the departments presented their final recommendations on their organizations and the subcommittee made its decisions. The November meeting was reserved for the subcommittee's approval of legislation.

Subcommittee-Sponsored Legislation

The four bills proposed by the subcommittee follow the template of the Executive Reorganization Act and follow the organizational structure inherent in all other cabinet departments. Each bill includes enabling legislation and whatever amendatory changes are necessary to conform with the change in name and status.

The Indian Affairs Department Act will be introduced in the house with Representative Madalena as the prime sponsor.

The Veterans' Services Department Act will be introduced in the senate with Senator Martinez as the prime sponsor.

The Cultural Affairs Department Act will be introduced in the house with Representative J. Paul Taylor as the prime sponsor.

The Aging and Long-Term Care Department Act will be introduced in the house with Representative Salazar as the prime sponsor and in the senate with Senator Bernadette Sanchez as prime sponsor. The bill has not been finalized and is shown in this report as a discussion draft.

Appendix

Copies of the committee's work plan, agendas, minutes and legislation are in the appendix to this report.

APPENDIX

**2003 Approved
Work Plan and Budget
for the
Subcommittee on Reorganization**

During the 2003 session, the legislature passed House Bill 585 (Chapter 403), which allowed the governor by executive order to elevate the state agency on aging, office of cultural affairs, the New Mexico office of Indian affairs and the New Mexico veterans' service commission to cabinet department status. The bill required that the legislature pass enabling legislation in the 2004 session for the executive changes or those changes will be void. In response to the bill, the governor issued Executive Order 2003-022, which carried out the direction of House Bill 585.

The New Mexico legislative council has named the subcommittee on reorganization to consider the new departmental structures and recommend statutory changes. The council also charged the subcommittee with studying proposals on reorganizing the public regulation commission.

To carry out its function, the subcommittee on reorganization proposes to hold three two-day meetings. The subcommittee will hear from the affected departments, their constituent boards and other interested persons on the organizational structures they recommend for adoption by the legislature; study the executive branch organizational structure, including cabinet structures; consider differences in organizational structures proposed by the affected departments and bills prepared or introduced in 2003; prepare bill drafts for introduction in 2004 covering the four new cabinet departments, as deemed necessary and appropriate; and make other recommendations regarding the four cabinet departments to the legislature as needed. The subcommittee will also consider proposals for reorganizing the public regulation commission and make recommendations regarding that topic.

**2003 Proposed Meeting Schedule and Budget
for the
Subcommittee on Reorganization**

The subcommittee on reorganization consists of 10 voting members and no advisory members.
All meetings will be held in Santa Fe

<u>Date:</u>	<u>Cost¹:</u>
September 3-4	\$ 3,880
October 16-17	3,880
November 17-18	<u>3,880</u>
Total:	\$11,640

¹Costs and total are rounded to the nearest dollar.

**TENTATIVE AGENDA
for the
First Meeting
of the
Subcommittee on Reorganization
August 12, 2003
Room 311, State Capitol**

10:00 a.m. Call to Order
Roll Call
Chairman's Welcome

10:20 a.m. History and Structure of New Mexico Executive — Jonelle Maison, staff

11:00 a.m. Interim Work Plan and Budget
Committee Business
Adjournment

Revised: August 29, 2003

**TENTATIVE AGENDA
for the
Subcommittee on Reorganization
September 3-4, 2003 ★ Room 309, State Capitol**

September 3

- 10:00 a.m. Call to Order
Roll Call
Approval of Minutes
- 10:15 a.m. Presentation on the Executive Reorganization Act — Jonelle Maison, Legislative Council Service
- 10:45 a.m. Aging and Long-Term Care Department Organization — Michelle Grisham, secretary
Public Comment
- 12:30 p.m. Lunch
- 1:30 p.m. Veterans' Service Department Organization — John Garcia, secretary
Veterans' Service Commission Comments
Public Comment
- 2:30 p.m. Indian Affairs Department Organization — Bernie Teba, secretary
Indian Affairs Commission Comments
Public Comment

September 4

- 9:00 a.m. Cultural Affairs Department Organization — Stuart Ashman, secretary
CAD Divisions and Facilities Presentation
Boards and Commissions' Comments
Foundations' Comments
Public Comment
- Other Committee Business
Adjournment

TENTATIVE AGENDA
of the
Third Meeting
of the
Subcommittee on Reorganization
October 14-15, 2003 ★ Room 309, State Capitol

October 14

10:00 a.m. Call to Order
Roll Call
Approval of Minutes

10:15 a.m. Public Regulation Commission Organization — Lynda Lovejoy, chairwoman

11:30 a.m. LUNCH

1:00 p.m. Veterans' Services Department Final Organizational Plan — John Garcia, secretary

2:00 p.m. Indian Affairs Department Final Organizational Plan — Bernie Teba, secretary

Instructions to Staff

October 15

9:00 a.m. Aging and Long-Term Care Department Final Organizational Plan — Michelle Grisham, secretary

11:30 a.m. LUNCH

1:00 p.m. Cultural Affairs Department Final Organizational Plan — Stuart Ashman, secretary

Instructions to Staff
Other Committee Business
Adjournment

**TENTATIVE AGENDA
for the
Fourth Meeting
of the
Subcommittee on Reorganization
November 17, 2003 * Room 309, State Capitol**

Monday, November 17

- 10:00 a.m. Call to order
Roll call
Approval of minutes of last meeting
- 10:15 a.m. Committee Legislation—Jonelle Maison
Indian Affairs Department Act
Veterans' Services Department Act
- 12:00 noon LUNCH
- 1:30 p.m. Committee Legislation, continued
Cultural Affairs Department Act
Aging and Long-Term Care Department Act
- 3:00 p.m. Public Regulation Commission
2002 PRC Subcommittee Report—Jonelle Maison
Follow-up on SOR Questions—Patrick Baca, PRC chief of staff
- Other Business
Adjournment

Tuesday, November 18—CANCELED

**Minutes
of the
First Meeting
of the
Subcommittee on Reorganization
August 12, 2003**

The first meeting of the subcommittee on reorganization was called to order by Representative J. Paul Taylor, chairman, at 10:30 a.m. on August 12, 2003 in room 311, state capitol. A quorum of regular members not being present, the speaker of the house and the president pro tempore made temporary appointments.

Present were:

Rep. J. Paul Taylor, chairman
Sen. Bernadette M. Sanchez, vice chairwoman
Rep. Janice E. Arnold-Jones (temporary appointment)
Sen. Raymond Kysar
Rep. James Roger Madalena
Sen. Richard M. Romero (temporary appointment)

Absent were:

Rep. Thomas A. Anderson
Rep. Donald E. Bratton
Sen. Pete Campos
Sen. Dianna J. Duran
Rep. Nick L. Salazar
Sen. Leonard Tsosie

Staff:

Jonelle Maison

Guests: The guest list is included in the meeting file.

Representative Taylor presented the discussion draft of the proposed work plan, meeting schedule and budget for the subcommittee's interim work. On motion from Senator Romero, seconded by Representative Madalena, the work plan, schedule and budget were approved for submission to the legislative council.

★ Representative Madalena requested that the cultural affairs, Indian affairs and veterans' services departments provide organizational charts similar to the one submitted by the aging and long-term care department, which included the names of deputy secretaries and division directors.

Representative Taylor explained that during its work, the subcommittee would take testimony from department staff, affected boards and commissions and other interested persons. He reminded the subcommittee and audience that in the final analysis, it is the legislature, as the state's policymakers, that will make the decisions regarding the statutory organization of the new departments. He stressed the importance of the collaboration among the subcommittee, the departments and the governor in carrying out the subcommittee's charge.

Representative Madalena congratulated the new cabinet secretaries, stating that the elevation of these agencies to cabinet status was long overdue. Senator Sanchez concurred with Representative Madalena's remarks and said she looked forward to the process. Representatives of the new departments spoke briefly on the excitement of developing their organizations and

expressed their willingness to work with the subcommittee during the interim.

The next meeting of the subcommittee will be September 3-4, 2003 in room 309, state capitol. The meeting will begin at 10:00 a.m. on the first day and 9:00 a.m. on the second day.

There being no further business, the subcommittee adjourned at 11:00 a.m.

**Minutes
of the
Second Meeting
of the
Subcommittee on Reorganization**

**September 3-4, 2003
Room 309, State Capitol
Santa Fe**

The second meeting of the subcommittee on reorganization was called to order by Representative J. Paul Taylor, chairman, at 10:30 a.m. on September 3, 2003 in Room 309, State Capitol.

Present were:

Rep. J. Paul Taylor, chairman
Rep. Thomas A. Anderson
Sen. Raymond Kysar
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Nick L. Salazar
Sen. Leonard Tsosie

Absent were:

Sen. Bernadette M. Sanchez, vice chairwoman
Rep. Donald E. Bratton
Sen. Dianna J. Duran

Staff:

Jonelle Maison

Guests: The guest list is in the meeting file.

Copies of all handouts are in the meeting file.

The minutes of the first meeting were approved as submitted.

History of Executive Organizational Structure – Jonelle Maison, staff

Ms. Maison presented written testimony on the history of the executive branch's organizational structure and both failed and successful attempts at reorganizing the branch. Modern reorganization efforts began in 1951 with the Little Hoover commission and culminated in 1977 with the passage of the Executive Reorganization Act and the attendant bills creating the cabinet structure. The underlying structure of cabinet departments has remained essentially the same since enacted in 1977, with departments internally divided into divisions, bureaus and sections. As per the Executive Reorganization Act and the Personnel Act, secretaries and division directors are exempt employees and bureau chiefs and subsidiary employees are classified.

★ The committee requested any information the new department secretaries have on the reasons the governor wanted to elevate the agencies to cabinet department status.

Aging and Long-Term Care Department (ALTCD) Organization – Michelle Grisham, Secretary, and Pamela Hyde, Secretary of Human Services

Ms. Grisham presented written testimony on the reorganization plan for the new department. Unlike the other agencies to be elevated, ALTCD will take programs that serve disabled and chronic care populations from other departments. The affected departments have been working closely to identify programs that should be consolidated into the long-term care component of ALTCD. The programs that are proposed to be moved include:

- ▷ from the department of health (DOH), the traumatic brain injury program;
- ▷ from the human services department (HSD), the disabled and elderly waiver, pre-PACE, long-term care link and personal care option; and
- ▷ from the children, youth and families department (CYFD), the adult protective services, attendant care, homemaker services and adult day care.

The purpose of the consolidation is to enhance the home and community-based services system; to create a seamless delivery system with coordinated information, screening and assistance; and to leverage funding and services more effectively. The consolidation will be accomplished over time and will not be fully implemented until January 2006. The department secretaries have all signed off on the consolidation plan.

The department as proposed would consist of five divisions: administrative services (all cabinet departments have ASDs); long-term care; consumer and elder rights; aging network; and adult protective services. The office of the secretary would include public information and education, including outreach, education and training; and the Indian area agency on aging. The department is required by the federal Older Americans Act of 1965 to have a policy advisory committee to advise the secretary.

Ms. Grisham provided a proposed time line for program transfers. Traumatic brain injury (DOH) and long-term care link (HSD) transfers are proposed for January 2004; the other HSD programs would move in July 2004; and CYFD programs would be rolled out at various times from July 2005 through December 2005.

The department secretaries are considering innovative ways to provide services without an attendant increase in budget and personnel. When programs are transferred, their personnel and budget will also be transferred. HSD is committed to providing continued support and access to its resources. CYFD and ALTCD are discussing ways to share current social workers and other personnel for adult protective services. Ms. Grisham is asking for only three additional FTEs, who will be phased in as the new programs are phased in.

★ Senator Tsosie asked for a list of all services provided to elderly and long-term care recipients in all departments.

On questions from committee members, Ms. Grisham said the purpose of organizing an aging and long-term care department is to leverage available money; organize in-home and community-based programs for the elderly and chronically disabled populations in a logical taxonomy to minimize confusion for users and providers; and avoid duplication of services across departments. She noted that no organizational design is sufficient to meet all needs. The aging and disabled population is huge and its needs are great; the state does not have either the public or private resources necessary to provide comprehensive coverage.

The committee discussed other agencies and state programs that offer services to the elderly and chronically disabled. Representative Taylor pointed out that it is impossible to move all programs to one department, so ALTCD will have to ensure appropriate coordination with other departments and agencies.

Veterans' Services Department – John Garcia, Secretary, and Joe Lucero, Director of Constituency Services

Mr. Garcia presented written testimony on the proposed organization of the veterans' services department. The department will be one of only 19 such departments in the country. The most pressing need is for additional staff and training funds. The proposal submitted to the governor included 7.5 new FTEs and a budget increase of \$744.0; the governor's office approved only one FTE, which is the deputy secretary position. The department will seek a budget increase of \$169.0 to cover the deputy secretary and costs for military funerals. The department has asked tribes to appoint tribal veterans' service officers, which would increase the department's effectiveness without a concomitant increase in budget and FTEs. Mr. Garcia would like to see a tribal veterans' association. Training for all field officers is one of the department's top priorities, and Mr. Garcia is considering requesting a supplemental appropriation.

★ Representative Madalena asked for a copy of the department's budget request. He suggested that the department ask for what it needs and let the legislature determine whether it should get the request.

On questions from Representative Salazar, Mr. Garcia said the new Fort Stanton veterans' cemetery will require funding for two FTEs to administer the facility. The federal government will provide \$3 million to build the cemetery. Representative Madalena asked about plans for a new national cemetery. Mr. Garcia said there are four possibilities: Westland corporation and Kirtland lands in Albuquerque, and one each in Valencia and Sandoval counties.

Senator Tsosie said that the veterans he talks to have said there are too many monuments and not enough services. He expressed concern over the problem of homelessness in the veteran population, noting that one-third of veterans are homeless. He recommended that the department provide education assistance and housing assistance coordinators.

Representative Taylor discussed the organization proposal and requested that the department consider refiguring some of the divisions to minimize administrative costs.

Indian Affairs Department – Bernie Teba, Secretary, and Sam Cata, Deputy Secretary

Mr. Teba presented written testimony on the reorganization plan for the Indian affairs department. The department is requesting 15 additional FTEs and a budget increase of \$1.168 million to help it provide increased services to New Mexico tribes and pueblos. Of particular concern is how to ensure appropriate oversight of capital outlay funding. The department administers approximately 128 capital outlay projects worth approximately \$22 million.

Mr. Teba hopes to initiate an interagency Native American council to ensure better coordination and service delivery to Native American populations. Examples he gave included participation in the state water plan and working with the corrections department on issues pertaining to parolees and jurisdiction. Mr. Cata said the primary questions the department considered regarding reorganization were, "What can the department do and how can it be more responsive to the tribes and pueblos?". The department wants to be out in the communities working with its constituents. Other concerns of the department include ensuring that tribes and pueblos participate fully in federal and state funding for drought relief and homeland security. Mr. Teba explained that the department's new status as a cabinet department is a significant step in its ability to work with tribal governments.

Members of the New Mexico commission on Indian affairs commented on their support for the new department.

Representative Madalena supported the plan and recommended that the New Mexico commission on Indian affairs continue as an advisory commission. Mr. Teba said that the governor supports an advisory commission as well.

Other committee members expressed reservations about the reorganization plan and requested that the department reconsider the number of divisions and the allocations of staff.

★ Representative Salazar asked for summaries under new positions and divisions.

The meeting recessed at 5:30 p.m.

The meeting was recovered at 9:15 a.m. on the second day. All members present on the first day were present on the second day. Representative Luciano "Lucky" Varela joined the committee for the day's presentation.

Cultural Affairs Department – Stuart Ashman, Secretary

Since Mr. Ashman was just named as secretary of cultural affairs, he presented written testimony on the current organization of the department. Each museum, the state library, the arts division and the historic preservation division presented a brief overview of their operations. In addition, representatives of the boards and foundations of the farm and ranch heritage museum, the museum of natural history, the museum of New Mexico and the museum of international folk art presented their comments. The critical reorganization question is how to structure the department so the museum of New Mexico, which currently consists of the laboratory of anthropology, the

office of archaeological studies, the museum of fine arts, the museum of Indian arts and culture, the museum of international folk art, the palace of the governors (state history museum) and six monuments, continues in existence. Mr. Ashman will present the department's proposed organization at the committee's next meeting.

Committee members expressed their support for the cultural affairs department and stressed the importance of museums and other cultural opportunities in the state.

At the request of several committee members, the committee agreed to change its next meeting date from October 16-17. Please note that the next meeting is **October 14-15, 2003** in Room 309, State Capitol. The meeting will begin at 10:00 a.m. on October 14 and at 9:00 a.m. on October 15.

There being no further business, the committee adjourned at 12:40 p.m.

**Minutes
of the
Third Meeting
of the
Subcommittee on Reorganization
October 14-15, 2003**

The third meeting of the subcommittee on reorganization was called to order on October 14, 2003 by Representative J. Paul Taylor, chairman, at 10:15 a.m. in Room 309, State Capitol.

Present were:

Rep. J. Paul Taylor, chairman
Sen. Bernadette M. Sanchez, vice chairwoman
Rep. Thomas A. Anderson
Rep. Donald E. Bratton
Sen. Dianna J. Duran
Sen. Raymond Kysar
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Nick L. Salazar
Sen. Leonard Tsosie
Rep. Teresa A. Zanetti

Absent were:

Staff:

Jonelle Maison

Guests: The guest list is in the meeting file.

Copies of all handouts are in the meeting file. The minutes of the second meeting were approved as submitted.

Public Regulation Commission (PRC) Organization -- Patrick Baca, chief of staff, and Roy Stephenson, legal division

Mr. Baca provided a copy of the commission's organizational chart and a written discussion of the commission's position on reorganization bills introduced in last year's session. The bills proposed to move ambulance standards to the department of health (DOH), the pipeline safety division to the energy, minerals and natural resources department and the fire marshal to the department of public safety. The commission believes that a constitutional amendment would be required before any functions other than the fire marshal could be removed from the authority of the PRC.

On questions from the subcommittee, Mr. Bruno Carrara of the pipeline safety bureau said the bureau is responsible for intrastate pipelines and the federal government is responsible for interstate pipelines. The bureau has four inspectors, but it needs 10 or 11 inspectors to increase its share of federal funding. Currently, the bureau receives 42 percent of its funding from the federal government; to receive more, the bureau would have to increase its inspection staff, have all

inspectors certified and change its inspection cycles. The inspectors cover approximately 2,600 miles of transmission and gathering lines and 12,000 miles of distribution system. There is a three-year certification process for inspectors, and two inspectors have almost completed the process. The bureau would like to have the resources to take over the federal function of inspecting interstate pipelines within the state.

Mr. Eric Serna answered questions regarding insurance regulation. He believes the current system works and there is no need for the insurance division to be a cabinet department.

★ A motion that would have the subcommittee not take action on moving functions from the PRC was withdrawn and the subcommittee requested the following information for its next meeting: (1) a copy of the PRC subcommittee report to the legislative council; (2) a color map indicating interstate and intrastate pipelines; (3) a planned approach for the pipeline safety bureau to receive 50 percent federal reimbursement; (4) pros and cons of last year's PRC reorganization bills and resolutions; and (5) a description of what the commission has done to alleviate concerns that resulted in the legislative council appointing last year's subcommittee and the introduction of reorganization legislation.

★ Staff was directed to talk to the bill sponsors and report to the subcommittee or offer the sponsors a place on the next meeting's agenda.

Veterans' Services Department -- John Garcia, secretary

Mr. Garcia presented the department's organizational chart and discussed the mission of the department. The subcommittee had a lengthy discussion of the need for a deputy secretary; the governor has approved the cost of the deputy secretary for next year as the only expansion in the department's budget. After Mr. Garcia's presentation, the subcommittee requested additional information and Mr. Garcia presented again on the second-day agenda.

Indian Affairs Department -- Bernie Teba, secretary

Mr. Teba presented two organizational plans, proposed budgets, functional descriptions and the department's priorities for new positions. Both plans call for the New Mexico commission on Indian affairs to be an advisory commission. The department administers approximately 200 capital outlay projects worth over \$20 million and conducts 14 community-based special projects for the 22 tribes and pueblos; about one-half of the capital outlay funding goes to the Navajo Nation. In the proposed program services division, there will be a division director in Santa Fe and several field personnel. For the Navajo Nation, there will be a manager, program specialist, contract specialist and secretary. There will be a manager for the pueblos and one for the Apache tribes and urban Indians and those managers will share a program specialist, contract specialist and secretary. The full rollout of the plan costs \$735.0 for 11 new positions. The department has identified seven positions that are critical: administrative services director/chief financial officer; program services division director; three field managers; and one program specialist and one contract specialist for the Navajo Nation. After discussion of the options and costs, the subcommittee approved plan 1 and \$527.0 for seven positions. The action was taken on motion by Representative Madalena, seconded by Senator Tsosie; it passed unanimously.

The meeting recessed at 4:30 p.m.

The second day of the meeting was reconvened at 9:15 a.m. by Representative J. Paul Taylor, chairman.

Veterans' Service Department -- John Garcia, secretary

Mr. Garcia provided further, detailed information on the proposed organization of the department. The proposals call for the New Mexico veterans' service commission to become an advisory body. The department serves an estimated 200,000 veterans through several programs, including the fiduciary/payee program; medical transportation program; state approving office; military honors funeral program; veterans' and disabled veterans property tax exemption programs; Vietnam veterans' scholarships; children of deceased veterans tuition waivers program; and qualifying veterans for the numerous military license plates. The department operates 19 field offices, although five of those offices are nonoperational because of vacancies. The department hopes to initiate several new programs, including the rural communities assistance program; Native American veterans' service officers program; Fort Stanton veterans' cemetery; national cemetery in Albuquerque area; veteran lung cancer outreach program; homeless veterans' programs; veterans' small business trade missions; veterans' discount card program; televised outreach program; state veterans' museum and other memorials; and conduct town hall meetings, national conferences and other outreach functions.

Subcommittee members urged the department to aggressively seek federal funds to offset the cost of state veterans' services.

On motion of Senator Martinez, seconded by Representative Salazar, the subcommittee voted 8-1 to accept the department's organizational chart and provide \$210.0 for a deputy secretary (\$110.0), a fiduciary manager (\$50.0) and continuation of the funeral honors program (\$50.0). Representative Bratton voted in the negative.

Aging and Long-Term Care Department (ALTCD) -- Michelle Grisham, secretary

Ms. Grisham presented the department's organizational plan and timeline for moving certain functions from DOH, human services department (HSD) and children, youth and families department (CYFD) into the new department. This department is the only one of the four newly created departments that requires a transfer of functions from other departments. The traumatic brain injury program will be transferred from DOH July 1, 2004. HSD's home and community-based medicaid waiver programs for the disabled and elderly will be transferred by January 1, 2005. Adult protective services will be transferred from CYFD January 1, 2006.

On questions from the subcommittee, Ms. Grisham said that adult protective services is, perhaps, the most difficult to transfer. The two departments are considering three options: (1) leave staff with CYFD; (2) separate children and adults and ALTCD would contract with CYFD to provide services; and (3) separate investigations of institutions and communities. She noted that the current system is fragile, underfunded and unsupported, and the breakup of protective services does not mean that either children or adults will receive better services unless resources are

increased.

Gary Chabot, legislative finance committee (LFC) staff, expressed concerns about the reorganization and transfer of functions. Since the reorganization is not being driven by the governor's office, there appears to be confusion over whether program budgets should be included in current departments of the new department and what department resources comprise a transferable program.

The subcommittee discussed the delivery of personal care services in McKinley county and former Representative Albert Shirley presented written and oral testimony asking that the program remain in HSD. Ms. Grisham pointed out that there will be changes in the personal care program, regardless of which department administers it. One major change will involve the assessment and evaluation of providers.

On further questions, Ms. Grisham said the following elder-related functions were not being considered for transfer to ALTCD: DVR, gap funding, guardianship services at DDPC and the veterans' services department, adult basic education and some D/D waivers in DOH.

On motion of Representative Salazar, seconded by Senator Martinez, the subcommittee unanimously approved the proposed organization. The approval did not include additional funding. The subcommittee expressed its concern that money for transferable programs be included in the budget requests of the current departments.

Cultural Affairs Department -- Stuart Ashman, secretary

Mr. Ashman presented the department's proposed organizational structure, which would include creating current subsets of the museum of New Mexico as co-equal divisions with other museums. The separated museums would continue to use the museum of New Mexico appellation and the board of regents of the museum of New Mexico would continue its policymaking role over the museums. The new divisions are fine art, state history, international folk art and Indian arts and culture and state monuments and archaeological studies. Centralized museum services and resources will be conducted by the museum services division. Mr. Ashman reported that the reorganization requires additional funding of \$500.0, including \$150.0 to elevate museum of New Mexico museum directors to division director status and \$350.0 for the museum services division.

After discussions about the deputy secretary and museum services functions, Representative Salazar moved, and Senator Martinez seconded, approval of the proposed organization and \$500.0 appropriation. The motion passed 7-1, with Representative Bratton voting in the negative.

★ Staff was directed to write a letter to the LFC detailing the subcommittee's actions.

There being no further business, the subcommittee adjourned at 3:15 p.m.

The next meeting of the subcommittee will be November 17-18, 2003 in Room 309, State Capitol.

**Minutes
of the
Fourth Meeting
of the
Subcommittee on Reorganization
November 17, 2003**

The fourth meeting of the subcommittee on reorganization was called to order on November 17, 2003 by Representative J. Paul Taylor, chairman, at 10:30 a.m. in Room 309, State Capitol.

Present were:

Rep. J. Paul Taylor, chairman
Sen. Bernadette M. Sanchez, vice chairwoman
Rep. Thomas A. Anderson
Sen. Dianna J. Duran
Rep. James Roger Madalena
Sen. Richard C. Martinez
Rep. Teresa A. Zanetti

Absent were:

Rep. Donald E. Bratton
Sen. Raymond Kysar
Rep. Nick L. Salazar
Sen. Leonard Tsosie

Staff:

Jonelle Maison

Guests: the guest list is in the meeting file.

The minutes of the last meeting were approved as submitted.

Subcommittee Legislation — Jonelle Maison

Ms. Maison reviewed the bills before the subcommittee and the following motions were adopted unanimously.

On motion of Senator Martinez, seconded by Representative Madalena, the subcommittee approved the Indian affairs department bill. Representative Madalena will be the prime sponsor of the subcommittee's bill in the house.

On motion of Representative Madalena, seconded by Senator Martinez, the subcommittee approved the veterans' services department bill. Senator Martinez will be the prime sponsor of the subcommittee's bill in the senate.

On motion of Representative Madalena, seconded by Representative Zanetti, the subcommittee approved the cultural affairs department bill. Representative Taylor will be the prime sponsor of the subcommittee's bill in the house.

On motion of Senator Martinez, seconded by Senator Sanchez, the subcommittee approved the aging and long-term care department bill. Representative Salazar will be the prime sponsor of the subcommittee's bill in the house and Senator Sanchez will be the prime sponsor in the senate.

Public Regulation Commission — Patrick Baca, chief of staff, and Bruno Carrara, pipeline safety bureau chief

Mr. Baca conveyed Commission Chairwoman Lovejoy's regrets for being unable to attend. On a question from Representative Taylor, Mr. Baca said the commission does not support the move of any functions from the commission.

Mr. Carrara provided written testimony on questions raised at the subcommittee's last meeting concerning pipeline safety. The bureau is responsible for the safety of intrastate pipelines, distribution mains and distribution services for gas and hazardous liquids. The bureau has five employees and the loan of a staff assistant who is retiring in December and will not be replaced. The bureau's budget is \$450.0. Most of the bureau's systems are still manual because of budget restraints. To be considered fully staffed for the workload, the bureau needs 11 FTE. Because of low staffing levels, the bureau's inspection cycles extend beyond federal guidelines. Until the bureau is fully staffed, it will not be able to take over the federal function for interstate pipeline inspections.

The subcommittee decided not to take any action on reorganization proposals for the public regulation commission.

The chairman thanked the subcommittee members and staff for their work during the interim. There being no further business, the subcommittee adjourned at 1:10 p.m.

October 16, 2003

Senator Ben D. Altamirano, Chairman
Legislative Finance Committee
Suite 101, State Capitol
Santa Fe, New Mexico 87501

Dear Senator Altamirano:

The legislative council appointed the subcommittee on reorganization to study the reorganization plans of the four departments that were elevated to cabinet status last spring and to draft enabling legislation for each. These new departments are the Indian affairs department, the veterans' services department, the aging and long-term care department and the cultural affairs department.

After its initial review of the departments' proposed organization plans, the subcommittee made recommendations to the departments for several changes that it thought would increase service to constituents. At its October meeting, the subcommittee heard testimony on the revised plans and approved those plans.

Not wanting to duplicate the work of the legislative finance committee, the subcommittee avoided in-depth discussions of department budgets; however, it would have been remiss if it had not considered the costs of the new administrative structures. Although each of the new departments needs additional resources for programs, the subcommittee has limited its fiscal recommendations to additional funding required to operate each cabinet department. Following are the subcommittee's recommendations for each of the departments.

Indian affairs department: The subcommittee recommends the department's revised plan 1, which provides for two divisions — administrative services and program services — in addition to functions in the office of the secretary. The managers and specialists in the program services division will be stationed in the field instead of Santa Fe to provide direct services to New Mexico tribes and urban Indians. The department administers approximately 200 capital outlay projects worth over \$20 million and conducts 14 community-based special projects for the 22 tribes and pueblos. The full roll-out of plan 1 costs \$735.0 for 11 new positions, and the subcommittee would like to see the department realize its full plan as soon as possible; however, in light of revenue constraints, the **subcommittee recommends \$527.0** to fund the seven top priority positions, which

are the administrative services division director/chief financial officer; the program services division director; one manager, one program specialist and one contract specialist to serve the Navajo Nation; one pueblo nations manager; and one Apache-urban manager.

Veterans' services department: The subcommittee adopted the veterans' services department plan for four divisions, including the state approval division (federally funded), the field services division, the state benefits division and the administrative services division. The subcommittee supports the funding for a deputy secretary, which is standard for cabinet departments. The department provides services to an estimated 200,000 veterans in the state through 11 programs and is undertaking several new initiatives. The subcommittee commends the secretary for his promise to aggressively seek federal funding for many of the department's activities. The **subcommittee recommends \$210.0** in additional funding for the veterans' services department, which will cover the cost of the deputy secretary (\$110.0) and the fiduciary manager (\$50.0), and provide continued funding for the military honors funeral program (\$50.0).

Aging and long-term care department: This department is the only one of the four that requires a transfer of functions from other departments. By working with other concerned departments, providers and clients, the department has developed a three-year time line for these functional transfers of long-term care programs. The time line provides for the traumatic brain injury program to be transferred from the department of health July 1, 2004 and the human services department's home and community-based medicaid waiver programs for the disabled and elderly to be transferred no later than January 1, 2005. Adult protective services of the children, youth and families department are slated for transfer January 1, 2006. Because already-funded programs will be transferred, the subcommittee adopted the department's reorganization plan without recommending additional funding. However, the subcommittee is very concerned that the money for these programs be available for transfer to the new department; program money must not be deleted from the department of health and human services department appropriations unless it has been added to the aging and long-term care department. The subcommittee's enabling legislation for the aging and long-term care department will provide the standard legislative language to transfer appropriations, money, personnel and property pertaining to the programs to be transferred.

Cultural affairs department: The subcommittee adopted the department's reorganization plan, which calls for all museums to have division status, thus providing parity among museum directors. However, the board of regents of the museum of New Mexico will continue to make policy for the fine arts, folk arts, Indian arts and state history museums; the monuments; and the office of archaeological studies. The department will replace the current museum of New Mexico division with an office of museum services that will initially provide centralized services to the museum of New Mexico divisions, with the goal of eventually providing those services to the other state museums. The **subcommittee recommends \$500.0** in additional funding, which includes \$150.0 to elevate museum of New Mexico museum directors to division director status and \$350.0 for museum services.

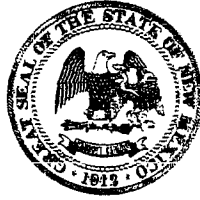
Senator Ben D. Altamirano, Chairman
October 16, 2003
Page 5

All of us on the subcommittee recognize the difficult task before the legislative finance committee this year, and we hope the information gleaned from our meetings with the new cabinet departments can assist you in the appropriation process. If you have any questions about the work or recommendations of the subcommittee, please feel free to talk to me or other members of the subcommittee.

Sincerely,

J. PAUL TAYLOR
Representative, District 33
Chairman, Subcommittee on Reorganization

JPT:dmh



State of New Mexico

Office of the Governor

Bill Richardson
Governor

EXECUTIVE ORDER NO. 2003-022

ESTABLISHING CABINET LEVEL DEPARTMENTS AND SECRETARIES

WHEREAS, the State Agency on Aging, the Office of Cultural Affairs, the Office of Indian Affairs, and the Veterans' Service Commission would better serve the citizens of New Mexico if they were elevated to cabinet-level departments and led by a Secretary; and

WHEREAS, the forty-sixth legislature, first session, concurred in elevating these offices to cabinet-level departments, as demonstrated by the legislature's passage of House Bill 585; and

WHEREAS, on or about April 8, 2003, the Governor of the State of New Mexico signed into law House Bill 585, which authorizes the elevation of these offices to cabinet-level departments through the execution of an executive order; and

WHEREAS, the effective date of House Bill 585 is June 20, 2003.

NOW THEREFORE, I, Bill Richardson, Governor of the State of New Mexico, by virtue of the authority vested in this office by the Constitution and Laws of New Mexico, hereby elevate the State Agency on Aging, the Office of Cultural Affairs, the Office of Indian Affairs, and the Veterans' Service Commission to cabinet-level departments as follows:

1. The State Agency on Aging shall become the Aging and Long-term Care Department; and
2. The Office of Cultural Affairs shall become the Cultural Affairs Department; and
3. The New Mexico Office of Indian Affairs shall become the Indian Affairs Department; and
4. The New Mexico Veterans' Service Commission shall become the Veterans' Service Department; and
5. The position of Director of the State Agency on Aging is hereby elevated to the position of Secretary of the Aging and Long-term Care Department; and
6. The position of State Cultural Affairs Officer of the Office of Cultural Affairs is hereby elevated to the position of Secretary of the Cultural Affairs Department; and
7. The position of Executive Director of the Office of Indian Affairs is hereby elevated to the Secretary of the Indian Affairs Department; and
8. The position of Director of Veterans' Affairs is hereby elevated to the Secretary of the Veterans' Service Department; and
9. The functions, personnel, appropriations, money, records, files, furniture, equipment, supplies, and other property of the former Office of Cultural Affairs, Office of Indian

Affairs, the Veterans' Service Commission, and the State Agency on Aging shall be transferred to their respective cabinet-level departments; and

10. In the case of the State Agency on Aging, the functions, personnel, appropriations, money, records, files, furniture, equipment, supplies, and other property of the Children, Youth, and Families Department, Human Services Department, and Department of Health pertaining to adult services shall be transferred to the newly-established Aging and Long-term Care Department; and
11. All contractual and statutory obligations of the former offices shall be the obligations of the newly-established cabinet-level departments; and
12. I have appointed a Secretary for each of the cabinet-level departments established herein, subject to the advice and consent of the senate.

THIS ORDER supersedes any other previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until such time as it is rescinded by the Governor.

ATTEST:



REBECCA VIGIL-GIRON
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 20th DAY OF JUNE, 2003

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO



BILL RICHARDSON
GOVERNOR

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HOUSE BILL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

FOR THE SUBCOMMITTEE ON REORGANIZATION

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE INDIAN AFFAIRS
DEPARTMENT; PROVIDING FOR A SECRETARY OF INDIAN AFFAIRS;
PROVIDING POWERS AND DUTIES; APPROVING TRANSFERS OF
APPROPRIATIONS, MONEY, PERSONNEL, PROPERTY, CONTRACTUAL
OBLIGATIONS AND STATUTORY REFERENCES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through
14 of this act may be cited as the "Indian Affairs Department
Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Indian Affairs Department Act is to create a single, unified
department to administer all laws and exercise all functions
formerly administered and executed by the New Mexico office of
Indian affairs.

1 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the
2 Indian Affairs Department Act:

3 A. "department" means the Indian affairs department;
4 and

5 B. "secretary" means the secretary of Indian affairs.

6 Section 4. [NEW MATERIAL] DEPARTMENT CREATED. -- The "Indian
7 affairs department" is created in the executive branch. The
8 department is a cabinet department and includes the following
9 divisions:

10 A. the administrative services division; and

11 B. the program services division.

12 Section 5. [NEW MATERIAL] SECRETARY OF INDIAN AFFAIRS. --

13 A. The chief executive and administrative officer of
14 the department is the "secretary of Indian affairs". The
15 secretary shall be appointed by the governor with the consent
16 of the senate. The secretary shall hold the office at the
17 pleasure of the governor and shall serve in the executive
18 cabinet.

19 B. An appointed secretary shall serve and have all of
20 the duties, responsibilities and authority of that office
21 during the period of time prior to final action by the senate
22 confirming or rejecting the secretary's appointment.

23 Section 6. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
24 POWERS. --

25 A. The secretary is responsible to the governor for

1 the operation of the department. It is the secretary's duty to
2 manage all operations of the department and to administer and
3 enforce the laws with which the secretary or the department is
4 charged.

5 B. To perform his duties, the secretary has every
6 power expressly enumerated in the laws, whether granted to the
7 secretary or any division of the department, except where
8 authority conferred upon any division in the department is
9 explicitly exempted from the secretary's authority by statute.

10 In accordance with these provisions, the secretary shall:

11 (1) except as otherwise provided in the Indian
12 Affairs Department Act, exercise general supervisory and
13 appointing authority over all department employees, subject to
14 any applicable personnel laws and rules;

15 (2) delegate authority to subordinates as
16 necessary and appropriate, clearly delineating such delegated
17 authority and the limitations thereto;

18 (3) organize the department into those
19 organizational units that will enable it to function most
20 efficiently, subject to any provisions of law requiring or
21 establishing specific organizational units;

22 (4) within the limitations of available
23 appropriations and applicable laws, employ and fix the
24 compensation of those persons necessary to discharge the
25 secretary's duties;

1 (5) take administrative action by issuing orders
2 and instructions, not inconsistent with the law, to ensure
3 implementation of and compliance with the provisions of law
4 with the administration or execution of which the secretary is
5 responsible, and to enforce those orders and instructions by
6 appropriate administrative action or actions in the courts;

7 (6) conduct research and studies that will
8 improve the operations of the department and the provision of
9 services to the citizens of the state;

10 (7) provide courses of instruction and practical
11 training for employees of the department and other persons
12 involved in the administration of programs with the objective
13 of improving the operations and efficiency of administration;

14 (8) prepare an annual budget of the department;

15 (9) provide cooperation, at the request of heads
16 of administratively attached agencies, in order to:

17 (a) minimize or eliminate duplication of
18 services and jurisdictional conflicts;

19 (b) coordinate activities and resolve
20 problems of mutual concern; and

21 (c) resolve by agreement the manner and
22 extent to which the department shall provide budgeting,
23 record-keeping and related clerical assistance to
24 administratively attached agencies; and

25 (10) appoint, with the governor's consent, for

1 each division, a "director". These appointed positions are
2 exempt from the provisions of the Personnel Act. Persons
3 appointed to these positions shall serve at the pleasure of the
4 secretary.

5 C. The secretary may apply for and receive, with the
6 governor's approval, in the name of the department, any public
7 or private funds, including United States government funds,
8 available to the department to carry out its programs, duties
9 or services.

10 D. Where functions of departments overlap, or a
11 function assigned to one department could better be performed
12 by another department, the secretary may recommend appropriate
13 legislation to the next session of the legislature for its
14 approval.

15 E. The secretary may make and adopt such reasonable
16 procedural rules as may be necessary to carry out the duties of
17 the department and its divisions. A rule promulgated by the
18 director of a division in carrying out the functions and duties
19 of the division shall not be effective until approved by the
20 secretary. Unless otherwise provided by statute, a rule
21 affecting a person or agency outside the department shall not
22 be adopted, amended or repealed without a public hearing on the
23 proposed action before the secretary or a hearing officer
24 designated by the secretary. The public hearing shall be held
25 in Santa Fe unless otherwise permitted by statute. Notice of

1 the subject matter of the rule, the action proposed to be
2 taken, the time and place of the hearing, the manner in which
3 interested persons may present their views and the method by
4 which copies of the proposed rule, proposed amendment or repeal
5 of an existing rule may be obtained shall be published once at
6 least thirty days prior to the hearing date in a newspaper of
7 general circulation and mailed at least thirty days prior to
8 the hearing date to all persons who have made a written request
9 for advance notice of hearing. All rules shall be filed in
10 accordance with the State Rules Act.

11 Section 7. [NEW MATERIAL] DEPARTMENT-- ADDITIONAL POWERS AND
12 DUTIES. --

13 A. The department is the coordinating agency for
14 intergovernmental and interagency programs concerning tribal
15 governments and the state.

16 B. The department shall:

17 (1) investigate, study, consider and act upon
18 the entire subject of Indian conditions and relations within
19 New Mexico, including problems of health, economy and education
20 and the effect of local, state and federal legislative,
21 executive and judicial actions. In performing its functions,
22 the department shall provide an opportunity for the
23 presentation and exchange of ideas in respect to Indian affairs
24 of the state by all interested persons; and

25 (2) assist in setting the policy, and act as the

1 clearinghouse, for all state programs affecting the Indian
2 people of New Mexico.

3 C. The department may:

4 (1) hold hearings, conduct meetings, make
5 investigations and confer with officials of local, state and
6 federal agencies to secure cooperation between the local,
7 state, federal and Indian tribal governments in the promotion
8 of the welfare of the Indian people of New Mexico;

9 (2) contract with tribal governments, public
10 agencies or private persons to provide services and facilities
11 for promoting the welfare of the Indian people of New Mexico;
12 and

13 (3) solicit and accept gifts, grants, donations,
14 bequests and devises.

15 Section 8. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
16 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO
17 INFORMATION. --

18 A. Those organizational units of the department and
19 the officers of those units specified by law shall have all of
20 the powers and duties enumerated in the specific laws involved.
21 However, the carrying out of those powers and duties shall be
22 subject to the direction and supervision of the secretary, who
23 shall retain the final decision-making authority and
24 responsibility for the administration of any such laws.

25 B. The department shall have access to all records,

1 data and information of other state departments that are not
2 specifically held confidential by law.

3 Section 9. [NEW MATERIAL] DIVISION DIRECTORS. -- Except as
4 otherwise provided by law, the secretary shall appoint, with
5 the approval of the governor, "directors" of divisions
6 established within the department. The directors so appointed
7 are exempt from the Personnel Act.

8 Section 10. [NEW MATERIAL] BUREAU CHIEFS. -- The secretary
9 may establish within each division such "bureaus" as the
10 secretary deems necessary to carry out the provisions of the
11 Indian Affairs Department Act. The secretary shall appoint a
12 "chief" to be the administrative head of a bureau. A chief and
13 all subsidiary employees of the department are covered by the
14 Personnel Act unless otherwise provided by law.

15 Section 11. [NEW MATERIAL] ADMINISTRATIVE SERVICES
16 DIVISION-- DUTIES. -- The administrative services division shall
17 provide administrative services to the department, including:
18 A. keeping all official records of the department;
19 B. providing clerical services in the areas of
20 personnel and budget preparation; and
21 C. providing clerical, record-keeping and
22 administrative support to agencies administratively attached to
23 the department, at their request.

24 Section 12. [NEW MATERIAL] PROGRAM SERVICES DIVISION--
25 DUTIES. -- The program services division shall provide program

1 implementation and support for field programs and services.

2 Section 13. [NEW MATERIAL] INDIAN AFFAIRS ADVISORY BOARD
3 CREATED. --

4 A. The "Indian affairs advisory board" is created.
5 The board shall consist of ten members who are residents of New
6 Mexico appointed by the governor as follows:

- 7 (1) three members shall be Pueblo Indians;
8 (2) three members shall be Navajo Indians;
9 (3) two members shall be Apache Indians;
10 (4) one member shall be an urban Indian; and
11 (5) one member shall be a non-Indian.

12 B. Indian members, except the urban Indian member,
13 shall be appointed from lists of names submitted by the all
14 Indian pueblo council, the Jicarilla and Mescalero tribal
15 councils and the Navajo Nation.

16 C. Members serve at the pleasure of the governor.
17 Vacancies shall be filled by appointment by the governor for
18 the unexpired term.

19 D. The governor shall appoint the chairman and the
20 board may select such other officers as the board deems
21 necessary.

22 E. Members may receive per diem and mileage pursuant
23 to the Per Diem and Mileage Act, but shall receive no other
24 compensation, perquisite or allowance.

25 F. The board shall advise the secretary on policy

1 matters related to the department's powers and duties.

2 Section 14. [NEW MATERIAL] PRESERVATION OF INDIAN LEGENDS. -
3 -The department may employ not more than two persons for each
4 Indian tribe or pueblo in the state to record the legends of
5 the tribe or pueblo in the English language for the purpose of
6 making them available for dissemination to the public. Persons
7 employed to record the legends shall be members of the tribe or
8 pueblo, shall have knowledge of both English and the language
9 spoken by the particular tribe or pueblo and shall be familiar
10 with a means of recording the legends in the English language.
11 The department may employ personnel and purchase recording
12 equipment necessary to fulfill the purpose of this section.

13 Section 15. Section 9-8-8 NMSA 1978 (being Laws 1977,
14 Chapter 252, Section 9, as amended) is amended to read:

15 "9-8-8. ADMINISTRATIVELY ATTACHED AGENCIES. --The [~~office of~~
16 ~~Indian affairs, the~~] commission on the status of women [~~and the~~
17 ~~state agency on aging are~~] is administratively attached to the
18 human services department in accordance with the Executive
19 Reorganization Act. "

20 Section 16. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
21 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW. --The
22 transfer of functions, personnel, appropriations, money,
23 records, equipment, supplies, other property, contractual
24 obligations and statutory references of the New Mexico office
25 of Indian affairs to the Indian affairs department pursuant to

1 executive order issued in accordance with Laws 2003, Chapter
2 403 is approved.

3 Section 17. APPROPRIATION. -- Five hundred twenty-seven
4 thousand dollars (\$527,000) is appropriated from the general
5 fund to the Indian affairs department for expenditure in fiscal
6 year 2005 for organizational and operational expenses. Any
7 unexpended or unencumbered balance remaining at the end of
8 fiscal year 2005 shall revert to the general fund.

9 Section 18. REPEAL. -- Sections 28-12-4 through 28-12-9 NMSA
10 1978 (being Laws 1975 (1st S.S.), Chapter 11, Section 1, Laws
11 1955, Chapter 162, Sections 2 through 4, Laws 1967, Chapter
12 225, Section 1 and Laws 1955, Chapter 162, Section 5, as
13 amended) are repealed.

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SENATE BILL
46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004
INTRODUCED BY

FOR THE SUBCOMMITTEE ON REORGANIZATION

AN ACT
RELATING TO EXECUTIVE ORGANIZATION; CREATING THE VETERANS'
SERVICES DEPARTMENT; PROVIDING POWERS AND DUTIES; APPROVING
TRANSFERS OF FUNCTIONS, PERSONNEL, PROPERTY, CONTRACTUAL
OBLIGATIONS AND STATUTORY REFERENCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through
20 of this act may be cited as the "Veterans' Services
Department Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Veterans' Services Department Act is to create a unified
department to administer the laws and exercise the functions
formerly administered and exercised by the New Mexico veterans'
service commission.

Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the

1 Veterans' Services Department Act:

2 A. "department" means the veterans' services
3 department;

4 B. "secretary" means the secretary of veterans'
5 services; and

6 C. "veteran" means a New Mexico resident who:

7 (1) is a citizen of the United States;

8 (2) was regularly enlisted, drafted, inducted or
9 commissioned in the armed forces of the United States and was
10 accepted for and assigned to active duty in the armed forces of
11 the United States; and

12 (3) was not separated from such service under
13 circumstances amounting to dishonorable discharge.

14 Section 4. [NEW MATERIAL] DEPARTMENT ESTABLISHED. -- The
15 "veterans' services department" is created in the executive
16 branch. The department is a cabinet department and includes
17 the following divisions:

18 A. the administrative services division;

19 B. the field services division;

20 C. the state approving division; and

21 D. the state benefits division.

22 Section 5. [NEW MATERIAL] SECRETARY OF VETERANS' SERVICES--
23 APPOINTMENT. --

24 A. The chief executive and administrative officer of
25 the department is the "secretary of veterans' services". The

1 secretary shall be appointed by the governor with the consent
2 of the senate and shall hold the office at the pleasure of the
3 governor and serve in the executive cabinet.

4 B. An appointed secretary shall serve and have all of
5 the duties, responsibilities and authority of the office during
6 the period of time prior to final action by the senate
7 confirming or rejecting his appointment.

8 Section 6. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
9 POWERS. --

10 A. The secretary is responsible to the governor for
11 the operation of the department. It is the duty of the
12 secretary to manage the operations of the department and to
13 administer and enforce the laws with which the secretary or the
14 department is charged.

15 B. The secretary has every power expressly enumerated
16 in the laws, whether granted to the secretary or to a division
17 of the department, except where authority conferred upon a
18 division in the department is explicitly exempted from the
19 authority of the secretary by statute. In accordance with
20 these provisions, the secretary shall:

21 (1) except as otherwise provided in the
22 Veterans' Services Department Act, exercise general supervisory
23 and appointing authority over all department employees, subject
24 to applicable personnel laws and rules;

25 (2) delegate authority to subordinates as the

1 secretary deems necessary and appropriate, clearly delineating
2 the delegated authority and its limitations;

3 (3) organize the department into organizational
4 units that the secretary deems will enable it to function most
5 efficiently, subject to provisions of law requiring or
6 establishing specific organizational units;

7 (4) within the limitations of available
8 appropriations and applicable laws, employ and fix the
9 compensation of the persons necessary to discharge the duties
10 of the secretary;

11 (5) take administrative action by issuing orders
12 and instructions, not inconsistent with the law, to ensure
13 implementation of and compliance with the provisions of law
14 with the administration or execution of which the secretary is
15 responsible and to enforce the orders and instructions by
16 appropriate administrative action or actions in the courts;

17 (6) conduct research and studies that will
18 improve the operations of the department and the provision of
19 services to the citizens of the state;

20 (7) provide courses of instruction and practical
21 training for employees of the department and other persons
22 involved in the administration of programs with the objective
23 of improving the operations and efficiency of the
24 administration;

25 (8) prepare an annual budget of the department;

1
2 (9) provide cooperation, at the request of heads
3 of administratively attached agencies, to:

4 (a) minimize or eliminate duplication of
5 services and jurisdictional conflicts;

6 (b) coordinate activities and resolve
7 problems of mutual concern; and

8 (c) resolve by agreement the manner and
9 extent to which the department shall provide budgeting, record
10 keeping and related clerical assistance to administratively
11 attached agencies; and

12 (10) except as otherwise provided by law, with
13 the approval of the governor, appoint a "director" for each
14 division established within the department.

15 C. The secretary may apply for and receive, in the
16 name of the department and with the approval of the governor,
17 public or private funds, including United States government
18 funds, available to the department to carry out its programs,
19 duties or services.

20 D. Where functions of departments overlap, or a
21 function assigned to one department could better be performed
22 by another department, the secretary may recommend appropriate
23 legislation to the next session of the legislature for its
24 approval.

25 E. The secretary may make and adopt reasonable rules

1 necessary to carry out the duties of the department and its
2 divisions. A rule promulgated by the director of a division in
3 carrying out the functions and duties of the division shall not
4 be effective until approved by the secretary. Unless otherwise
5 provided by statute, a rule affecting a person or agency
6 outside the department shall not be adopted, amended or
7 repealed without a public hearing on the proposed action before
8 the secretary or a hearing officer designated by him. The
9 public hearing shall be held in Santa Fe unless otherwise
10 permitted by statute. Notice of the subject matter of the
11 rule, the action proposed to be taken, the time and place of
12 the hearing, the manner in which an interested person may
13 present a view and the method by which copies of the proposed
14 rule, amendment or repeal of an existing rule may be obtained
15 shall be published once at least thirty days prior to the
16 hearing date in a newspaper of general circulation and mailed
17 at least thirty days before the hearing date to a person who
18 has submitted a written request for advance notice of hearing.
19 A rule shall be filed in accordance with the State Rules Act.

20 Section 7. DEPARTMENT RESPONSIBILITIES. --The department is
21 responsible for:

22 A. assisting veterans, their surviving spouses and
23 their children in the preparation, presentation and prosecution
24 of claims against the United States arising by reason of
25 military or naval service;

1 B. assisting veterans, their surviving spouses and
2 their children in establishing the rights and the procurement
3 of benefits that have accrued or may accrue to them pursuant to
4 state law;

5 C. disseminating information regarding laws
6 beneficial to veterans, their surviving spouses and their
7 children; and

8 D. cooperating with agencies of the United States
9 that are or may be established for the beneficial interest of
10 veterans, to which end the department may enter into agreements
11 or contracts with the United States for the purpose of
12 protecting or procuring rights or benefits for veterans.

13 Section 8. [NEW MATERIAL] ORGANIZATIONAL UNITS OF
14 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO
15 INFORMATION.--The powers and duties of the officers of the
16 organizational units of the department shall be subject to the
17 direction and supervision of the secretary, and the secretary
18 shall retain final decision-making authority and responsibility
19 in accordance with Section 6 of the Veterans' Services
20 Department Act. The department shall have access to all
21 records, data and information of other departments, agencies
22 and institutions, including its own organizational units not
23 specifically held confidential by law.

24 Section 9. [NEW MATERIAL] DIVISIONS-- DIRECTORS.-- The
25 secretary may appoint, with the approval of the governor,

1 "directors" of the divisions that are established within the
2 department. Directors are exempt from the Personnel Act.

3 Section 10. [NEW MATERIAL] BUREAUS--CHIEFS. --The secretary
4 may establish, within each division, such "bureaus" that the
5 secretary deems necessary to carry out the provisions of the
6 Veterans' Services Department Act. The secretary shall appoint
7 a "chief" to be the administrative head of a bureau. All
8 chiefs and subsidiary employees of the department shall be
9 covered by the Personnel Act, unless otherwise provided by law.

10 Section 11. [NEW MATERIAL] ADMINISTRATIVE SERVICES
11 DIVISION--DUTIES. --

12 A. The administrative services division shall provide
13 administrative services to the department, including:

14 (1) keeping all official records of the
15 department;

16 (2) providing clerical services in the areas of
17 personnel and budget preparation;

18 (3) providing clerical, record-keeping and
19 administrative support to agencies administratively attached to
20 the department at their request;

21 (4) coordinating short- and long-term planning
22 of the department; and

23 (5) administering programs and grants that have
24 been assigned to the department by the secretary or governor or
25 by statute.

1 B. The administrative services division shall provide
2 fiduciary services, including acting as either court-appointed
3 conservator or representative payee for veterans adjudicated as
4 unable to handle their own financial affairs without
5 assistance. The division shall manage fiduciary funds and
6 safeguard the assets for veterans and their dependents.

7 Section 12. [NEW MATERIAL] FIELD SERVICES DIVISION-- POWERS
8 AND DUTIES. --The field services division shall assist veterans
9 and their families with claims for federal veterans'
10 administration compensation, pensions, education, medical care
11 and death benefits. The field services division shall operate
12 field offices throughout the state to provide services and
13 disseminate information regarding all federal and state laws
14 beneficial to veterans and their families.

15 Section 13. [NEW MATERIAL] STATE APPROVING DIVISION. --

16 A. The state approving division is the state
17 approving agency for the purposes of 38 USCA Section 3671.

18 B. The state approving division shall evaluate and
19 approve educational programs and training programs for all
20 persons and veterans eligible for educational assistance
21 pursuant to the provisions of Title 38 of the United States
22 Code. Approval of courses, educational programs and training
23 programs, including training on the job, by the state approving
24 division shall be in accordance with the provisions of Title 38
25 of the United States Code.

1 Section 14. [NEW MATERIAL] STATE BENEFITS DIVISION. -- The
2 state benefits division shall:

3 A. provide oversight of veterans' service
4 organizations;

5 B. develop or coordinate veterans' programs and
6 outreach, including transitional living, housing, health care
7 and economic development; and

8 C. determine eligibility for, conduct or oversee
9 state-funded veterans' services and benefits, including
10 determining eligibility for veteran property tax exemptions,
11 hunting and fishing licensing and motor vehicle license plate
12 programs; managing the Vietnam and children of deceased
13 veterans scholarship programs; and overseeing the state funeral
14 honors and burial program and state veterans' cemeteries,
15 monuments and museums.

16 Section 15. [NEW MATERIAL] VETERANS' SERVICES ADVISORY
17 BOARD-- CREATED-- PURPOSE. --

18 A. The "veterans' services advisory board" is
19 created, composed of five members who shall be veterans
20 appointed by the governor. Members of the board shall serve at
21 the pleasure of the governor. Members of the board may be paid
22 per diem and mileage as provided in the Per Diem and Mileage
23 Act but shall receive no other compensation, perquisite or
24 allowance.

25 B. The veterans' services advisory board shall advise

1 the secretary and the department on matters related to
2 veterans.

3 Section 16. [NEW MATERIAL] POWER TO ACT AS A PERSONAL
4 REPRESENTATIVE OR CONSERVATOR. --

5 A. The department may act as a:

6 (1) personal representative of a deceased
7 veteran;

8 (2) conservator of the estate of a minor child
9 of a veteran;

10 (3) conservator of the estate of an incompetent
11 veteran; or

12 (4) conservator of the estate of a person who is
13 a bona fide resident of New Mexico and who is certified by the
14 United States veterans' administration as having money due from
15 the veterans' administration, the payment of which is dependent
16 upon the appointment of a conservator for the person.

17 B. A fee shall not be allowed or paid to the
18 department for acting as a personal representative or
19 conservator.

20 C. When the department is appointed as a personal
21 representative in the last will of a veteran, the court or
22 officer authorized to grant testamentary letters in the state
23 shall, upon the proper application, grant testamentary letters
24 to the department. When application is made to a court or
25 officer having authority to grant letters of administration

1 with the will annexed upon the estate of a veteran or upon the
2 estate of a deceased veteran who may have died intestate, and
3 there is no person entitled to the letters who is qualified,
4 competent, willing or able to accept such administration, the
5 court or officer may, at the request of a party interested in
6 the estate, grant letters of administration to the department.
7 A court or officer having authority to grant letters of
8 guardianship of an infant may, upon the same application as is
9 required by law for the appointment of a guardian of such an
10 infant, appoint the department as conservator of the estate of
11 an infant who is the child of a veteran. A court having
12 jurisdiction to appoint a conservator of the estate of an
13 incompetent may appoint the department to be such conservator
14 when the incompetent is a veteran. A court having jurisdiction
15 over a person who is a resident of New Mexico, and who is
16 certified by the United States veterans' administration as
17 having money due from the veterans' administration, the payment
18 of which is dependent upon the appointment of a conservator for
19 the person, may appoint the department to be the conservator.

20 D. The court or officer may make orders respecting
21 the department as the personal representative or conservator
22 and may require the department to render all accounts that the
23 court or officer might lawfully require if the personal
24 representative or conservator were a natural person.

25 Section 17. [NEW MATERIAL] COURT PROCEEDINGS FOR

1 APPOINTMENT AS PERSONAL REPRESENTATIVE OR CONSERVATOR. -- The
2 department may institute a proceeding in a court of competent
3 jurisdiction for appointment as personal representative of the
4 estate of a deceased veteran or as conservator of the estate of
5 a minor child of a veteran or as conservator of the estate of
6 an incompetent veteran without cost and tax.

7 Section 18. [NEW MATERIAL] ACTION AS A PERSONAL
8 REPRESENTATIVE OR CONSERVATOR-- BOND. --The department shall post
9 with the secretary of state a corporate surety bond in the
10 amount of five hundred thousand dollars (\$500,000). The bond
11 shall be conditioned upon the faithful discharge of the duties
12 of the department as personal representative or conservator and
13 shall inure to the use and benefit of each person or estate for
14 whom the department is appointed to act. In a case or
15 proceeding in which the department is appointed as a personal
16 representative of the estate of a veteran or as a conservator
17 of the estate of an incompetent veteran or as a conservator of
18 the estate of a minor child of a veteran, the department shall
19 act without additional bond and the court or official having
20 jurisdiction shall so order in its order of appointment.

21 Section 19. [NEW MATERIAL] BOND PREMIUM COST PRORATION. --In
22 each case where the department is appointed to serve as a
23 personal representative or conservator of the estate of a
24 beneficiary of the United States veterans' administration, the
25 court in which the estate is filed shall authorize a charge for

1 each estate's share of the bond premium to be paid from the
2 assets of the estate. The department shall determine the
3 charge to be made against each estate, and the aggregate amount
4 of all charges shall not exceed the bond premium. It is the
5 intent of the legislature that this charge shall be the share
6 of each estate in the cost of the bond that the department
7 posts as provided in Section 18 of the Veterans' Services
8 Department Act.

9 Section 20. [NEW MATERIAL] OATHS AND AFFIRMATIONS. --The
10 secretary and the employees designated by the secretary may
11 administer oaths and affirmations and execute attestation and
12 certificates.

13 Section 21. Section 7-37-5.1 NMSA 1978 (being Laws 2000,
14 Chapter 92, Section 1 and Laws 2000, Chapter 94, Section 1, as
15 amended by Laws 2003, Chapter 29, Section 1 and by Laws 2003,
16 Chapter 57, Section 2) is amended to read:

17 "7-37-5.1. DISABLED VETERAN EXEMPTION. --

18 A. As used in this section:

19 (1) "disabled veteran" means an individual who:

20 (a) has been honorably discharged from
21 membership in the armed forces of the United States or has
22 received a discharge certificate from a branch of the armed
23 forces of the United States for civilian service recognized
24 pursuant to federal law as service in the armed forces of the
25 United States; and

1 (b) has been determined pursuant to federal
2 law to have a one hundred percent permanent and total service-
3 connected disability; and

4 (2) "honorably discharged" means discharged from
5 the armed forces pursuant to a discharge other than a
6 dishonorable or bad conduct discharge.

7 B. The property of a disabled veteran, including
8 joint or community property of the veteran and the veteran's
9 spouse, is exempt from property taxation if it is occupied by
10 the disabled veteran as his principal place of residence.

11 Property held in a grantor trust established under
12 Sections 671 through 677 of the Internal Revenue Code of 1986,
13 as those sections may be amended or renumbered, by a disabled
14 veteran or the veteran's surviving spouse is also exempt from
15 property taxation if the property otherwise meets the
16 requirements for exemption in this subsection or Subsection C
17 of this section.

18 C. The property of the surviving spouse of a disabled
19 veteran is exempt from property taxation if:

20 (1) the surviving spouse and the disabled
21 veteran were married at the time of the disabled veteran's
22 death;

23 (2) the property was exempt prior to the
24 disabled veteran's death pursuant to Subsection B of this
25 section; and

1 (3) the surviving spouse continues to occupy the
2 property continuously after the disabled veteran's death as the
3 spouse's principal place of residence.

4 D. The exemption provided by this section may be
5 referred to as the "disabled veteran exemption".

6 E. The disabled veteran exemption shall be applied
7 only if claimed and allowed in accordance with Section 7-38-17
8 NMSA 1978 and the rules of the department.

9 F. The ~~[New Mexico veterans' service commission]~~
10 veterans' services department shall assist the department and
11 the county assessors in determining which veterans qualify for
12 the disabled veteran exemption. "

13 Section 22. Section 7-38-17 NMSA 1978 (being Laws 1973,
14 Chapter 258, Section 57, as amended) is amended to read:

15 "7-38-17. CLAIMING EXEMPTIONS- - REQUIREMENTS- - PENALTIES. --

16 A. Subject to the requirements of Subsection E of
17 this section, head-of-family exemptions claimed and allowed in
18 the 1974 or a subsequent tax year, veteran exemptions claimed
19 and allowed in the 1982 or a subsequent tax year or disabled
20 veteran exemptions claimed and allowed in the 2000 or a
21 subsequent tax year need not be claimed for subsequent tax
22 years if there is no change in eligibility for the exemption
23 nor any change in ownership of the property against which the
24 exemption was claimed. Head-of-family and veteran exemptions
25 allowable under this subsection shall be applied automatically

1 by county assessors in the subsequent tax years.

2 B. Beginning with the 1983 tax year, other exemptions
3 of real property specified under Section 7-36-7 NMSA 1978 for
4 nongovernmental entities shall be claimed in order to be
5 allowed. Once such exemptions are claimed and allowed for a
6 tax year, they need not be claimed for subsequent tax years if
7 there is no change in eligibility. Exemptions allowable under
8 this subsection shall be applied automatically by county
9 assessors in subsequent tax years.

10 C. An exemption required to be claimed under this
11 section shall be applied for no later than thirty days after
12 the mailing of the county ~~[assessors']~~ assessor's notices of
13 valuation pursuant to Section 7-38-20 NMSA 1978 in order for it
14 to be allowed for that tax year.

15 D. A person who has had an exemption applied to a tax
16 year and subsequently becomes ineligible for the exemption
17 because of a change in the person's status or a change in the
18 ownership of the property against which the exemption was
19 applied shall notify the county assessor of the loss of
20 eligibility for the exemption by the last day of February of
21 the tax year immediately following the year in which loss of
22 eligibility occurs.

23 E. Exemptions may be claimed by filing proof of
24 eligibility for the exemption with the county assessor. The
25 proof shall be in a form prescribed by regulation of the

1 department. Procedures for determining eligibility of
2 claimants for any exemption shall be prescribed by regulation
3 of the department, and these regulations shall include
4 provisions for requiring the [~~New Mexico veterans' service~~
5 ~~commission~~] veterans' services department to issue certificates
6 of eligibility for veteran exemptions in a form and with the
7 information required by the department. The regulations shall
8 also include verification procedures to assure that veteran
9 exemptions in excess of the amount authorized under Section
10 7-37-5 NMSA 1978 are not allowed as a result of multiple
11 claiming in more than one county or claiming against more than
12 one property in a single tax year.

13 F. The department shall consult and cooperate with
14 the [~~New Mexico veterans' service commission~~] veterans'
15 services department in the development and promulgation of
16 regulations under Subsection E of this section. The
17 [~~commission~~] veterans' services department shall comply with
18 the promulgated regulations. The [~~commission~~] veterans'
19 services department shall collect a fee of five dollars (\$5.00)
20 for the issuance of a duplicate certificate of eligibility to a
21 veteran.

22 G. A person who violates the provisions of this
23 section by intentionally claiming and receiving the benefit of
24 an exemption to which [~~he~~] the person is not entitled or who
25 fails to comply with the provisions of Subsection D of this

1 section is guilty of a misdemeanor and shall be punished by a
2 fine of not more than one thousand dollars (\$1,000). A county
3 assessor or ~~[his]~~ the assessor's employee who knowingly permits
4 a claimant for an exemption to receive the benefit of an
5 exemption to which ~~[he]~~ the claimant is not entitled is guilty
6 of a misdemeanor and shall be punished by a fine of not more
7 than one thousand dollars (\$1,000) and shall also be
8 automatically removed from office or dismissed from employment
9 upon conviction under this subsection. "

10 Section 23. Section 15-3-34 NMSA 1978 (being Laws 1991,
11 Chapter 39, Section 1, as amended) is amended to read:

12 "15-3-34. PUBLIC BUILDINGS--FLAG DISPLAY.--The prisoner of
13 war and missing in action flag shall be displayed on legal
14 public holidays in New Mexico at all public buildings with
15 flagpoles owned by the state in accordance with rules adopted
16 by the ~~[New Mexico veterans' service commission]~~ veterans'
17 services department. "

18 Section 24. Section 21-21E-2 NMSA 1978 (being Laws 1985,
19 Chapter 171, Section 2) is amended to read:

20 "21-21E-2. DISBURSEMENTS FROM FUND.--
21 A. A Vietnam veteran may apply to the ~~[New Mexico~~
22 ~~veterans' service commission]~~ veterans' services department for
23 a scholarship. The ~~[commission]~~ department shall determine the
24 eligibility of an applicant and certify approved applicants to
25 the ~~[board of educational finance]~~ commission on higher

1 education.

2 B. The [~~board of educational finance~~] commission on
3 higher education shall pay by voucher to the appropriate
4 educational institution an amount not exceeding the amount of
5 the scholarship for an approved Vietnam veteran.

6 C. Money in the fund shall be allocated in the order
7 that applications are received and approved. "

8 Section 25. Section 23-4-1 NMSA 1978 (being Laws 1974
9 (S.S.), Chapter 2, Section 1, as amended) is amended to read:

10 "23-4-1. VETERANS' HOME CREATED--ADVISORY BOARD. --

11 A. The "New Mexico state veterans' home" located near
12 Truth or Consequences, New Mexico, is declared to be a state
13 home for veterans of service in the armed forces of the United
14 States.

15 B. The "Fort Bayard medical center veterans' unit", a
16 separate and distinct unit of the Fort Bayard medical center,
17 located near Silver City, New Mexico, is declared to be a state
18 home for veterans of service in the armed forces of the United
19 States.

20 C. There is created the "New Mexico veterans'
21 advisory board". The advisory board shall consist of [~~seven~~]
22 eight members as follows:

23 (1) the [~~chairman of the New Mexico veterans'~~
24 ~~service commission~~] secretary of veterans' services or his
25 designee;

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1 (2) the director of [~~veterans' affairs~~] the
2 state benefits division of the veterans' services department;

3 (3) a veteran of World War II;

4 (4) the administrator of a private nursing home;

5 (5) a registered nurse who is employed by a
6 public or private nursing home;

7 (6) a veteran of the Korean conflict; [~~and~~]

8 (7) a veteran of the Vietnam conflict; and

9 (8) a veteran of the Gulf War.

10 D. The governor shall appoint the members designated
11 in Paragraphs (3) [~~(4), (5), (6) and (7)~~] through (8) of
12 Subsection C of this section, and their terms shall be for
13 three years each.

14 E. The New Mexico state veterans' home shall be under
15 the control of the department of health.

16 F. The New Mexico veterans' advisory board shall
17 provide advice to the secretary of health and the
18 administrators of the New Mexico state veterans' home and the
19 Fort Bayard medical center regarding veterans' services."

20 Section 26. Section 28-14-2 NMSA 1978 (being Laws 1949,
21 Chapter 170, Section 2, as amended) is amended to read:

22 "28-14-2. AMOUNTS PAYABLE TO INSTITUTIONS--ELIGIBILITY. --
23 The amounts due to any educational or training institution
24 pursuant to Chapter 28, Article 14 NMSA 1978 shall be payable
25 to [~~such~~] those institutions on vouchers signed by the

1 ~~[director of veterans' affairs of the New Mexico veterans'~~
2 ~~service commission]~~ secretary of veterans' services or ~~[his]~~
3 the secretary's authorized representative. The ~~[commission]~~
4 veterans' services department shall determine the eligibility
5 of children making application for the benefits provided in
6 ~~[Sections 74-4-1 through 74-4-4 NMSA 1953]~~ Chapter 28, Article
7 14 NMSA 1978 and shall satisfy itself of the attendance of
8 ~~[such]~~ the children and of the accuracy of charges submitted to
9 the ~~[commission]~~ department. No ~~[member]~~ staff of the
10 ~~[commission]~~ department shall receive any compensation for
11 ~~[such]~~ this service except as provided in the Per Diem and
12 Mileage Act. "

13 Section 27. Section 28-14-3 NMSA 1978 (being Laws 1949,
14 Chapter 170, Section 3, as amended by Laws 1975, Chapter 29,
15 Section 3 and by Laws 1975, Chapter 89, Section 2) is amended
16 to read:

17 "28-14-3. SELECTION BY VETERANS' ~~[SERVICE COMMISSION]~~
18 SERVICES DEPARTMENT. -- Children who are to receive the
19 educational benefits provided under Section ~~[74-4-1 NMSA 1953]~~
20 28-14-1 NMSA 1978 shall be selected by the ~~[New Mexico~~
21 ~~veterans' service commission]~~ veterans' services department on
22 the basis of need and merit. Nominations shall be made by:

23 A. the ~~[New Mexico veterans' service commission]~~
24 department, for children of deceased veterans;

25 B. the adjutant general ~~[of the state]~~, for children

1 of deceased national guard of New Mexico members; and

2 C. the New Mexico state police board, for children of
3 [the] deceased New Mexico state police members. "

4 Section 28. Section 66-3-418 NMSA 1978 (being Laws 1990,
5 Chapter 46, Section 1) is amended to read:

6 "66-3-418. PURPOSE. --The purpose of providing special
7 registration plates for veterans of the armed forces is to
8 allow veterans to be publicly recognized and to enable veterans
9 to support the activities of the [~~New Mexico~~] veterans'
10 [~~service commission~~] services department by annually purchasing
11 such license plates in addition to paying the regular motor
12 vehicle registration fees. "

13 Section 29. Section 66-3-419 NMSA 1978 (being Laws 1990,
14 Chapter 46, Section 2, as amended) is amended to read:

15 "66-3-419. SPECIAL REGISTRATION PLATES FOR ARMED FORCES
16 VETERANS. --

17 A. The department shall issue distinctive
18 registration plates indicating that the recipient is a veteran
19 of the armed forces of the United States, as defined in Section
20 28-13-7 NMSA 1978, or is retired from the national guard or
21 military reserves, if that person submits proof satisfactory to
22 the department of honorable discharge from the armed forces or
23 of retirement from the national guard or military reserves.

24 B. For a fee of fifteen dollars (\$15.00), which shall
25 be in addition to the regular motor vehicle registration fees,

1 any motor vehicle owner who is a veteran of the armed forces of
2 the United States or is retired from the national guard or
3 military reserves may apply for the issuance of a special
4 registration plate as defined in Subsection A of this section.
5 No two owners shall be issued identically lettered or numbered
6 plates.

7 C. The fifteen-dollar (\$15.00) fee provided in
8 Subsection B of this section shall be waived for each
9 registration period in which a validating sticker is issued
10 under the provisions of Section 66-3-17 NMSA 1978, in lieu of
11 the issuance of a special armed forces veteran plate.

12 D. Each armed forces veteran may elect to receive a
13 veteran-designation decal to be placed across the top of the
14 plate, centered above the registration number. Replacement or
15 different veteran-designation decals shall be available for
16 purchase from the department at a reasonable charge to be set
17 by the secretary. The department shall furnish the following
18 veteran-designation decals with the armed forces veteran plate
19 to a:

- 20 (1) medal of honor recipient;
- 21 (2) silver star recipient;
- 22 (3) bronze star recipient;
- 23 (4) navy cross recipient;
- 24 (5) distinguished service cross recipient;
- 25 (6) air force cross recipient;

- (7) ex-prisoner of war;
- (8) disabled veteran;
- (9) purple heart veteran;
- (10) atomic veteran;
- (11) Pearl Harbor survivor;
- (12) Navajo code talker;
- (13) Vietnam veteran;
- (14) Korean veteran;
- (15) disabled Korean veteran;
- (16) World War II veteran;
- (17) World War I veteran;
- (18) Grenada veteran;
- (19) Panama veteran; or
- (20) Desert Storm veteran.

E. The revenue from the special registration plates for the armed forces veterans fee imposed by Subsection B of this section shall be distributed as follows:

(1) seven dollars (\$7.00) of the fee collected for each registration plate shall be retained by the department and is appropriated to the department for the manufacture and issuance of the registration plates; and

(2) eight dollars (\$8.00) of the fee collected for each registration plate shall be transferred pursuant to the provisions of Subsection F of this section.

F. There is created in the state treasury the "armed

1 forces veterans license fund". A portion of the fee collected
2 for each special registration plate for armed forces veterans,
3 as provided in Subsection E of this section, shall be
4 transferred to the state treasurer for the credit of the fund.
5 Expenditures from the fund shall be made on vouchers issued and
6 signed by the [~~director of veterans' affairs~~] secretary of
7 veterans' services or his authorized representative upon
8 warrants drawn by the department of finance and administration
9 for the purpose of expanding services to rural areas of the
10 state, including Native American communities and senior citizen
11 centers. Any unexpended or unencumbered balance remaining at
12 the end of any fiscal year in the armed forces veterans license
13 fund shall not revert to the general fund."

14 Section 30. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
15 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--

16 A. The transfer of functions, personnel,
17 appropriations, money, records, equipment, supplies, other
18 property and contractual obligations of the New Mexico
19 veterans' service commission to the veterans' services
20 department pursuant to executive order issued in accordance
21 with Laws 2003, Chapter 403 is approved.

22 B. All references in law to the New Mexico veterans'
23 service commission shall be deemed to be references to the
24 veterans' services department.

25 Section 31. RECOMPILATION.--Section 28-13-16 NMSA 1978

1 (being Laws 1921, Chapter 61, Section 1, as amended) is
2 recompiled in Chapter 14, Article 8 NMSA 1978.

3 Section 32. APPROPRIATION. --Two hundred ten thousand
4 dollars (\$210,000) is appropriated from the general fund to the
5 veterans' services department for expenditure in fiscal year
6 2005 to carry out the purposes of the Veterans' Services
7 Department Act. Any unexpended or unencumbered balance
8 remaining at the end of the fiscal year 2005 shall revert to
9 the general fund.

10 Section 33. REPEAL. --Sections 28-13-1 through 28-13-14 NMSA
11 1978 (being Laws 1977, Chapter 252, Section 33, Laws 1979,
12 Chapter 317, Sections 1 through 3, Laws 1927, Chapter 147,
13 Sections 3 through 5, Laws 1935, Chapter 18, Section 1, Laws
14 1937, Chapter 87, Section 2, Laws 1939, Chapter 110, Sections 1
15 and 2, Laws 1957, Chapter 176, Section 4 and Laws 1973, Chapter
16 83, Sections 1 and 2, as amended) are repealed.

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HOUSE BILL
46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004
INTRODUCED BY

FOR THE SUBCOMMITTEE ON REORGANIZATION

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE CULTURAL
AFFAIRS DEPARTMENT; PROVIDING FOR A SECRETARY OF CULTURAL
AFFAIRS; PROVIDING POWERS AND DUTIES; TRANSFERRING
APPROPRIATIONS, MONEY, PERSONNEL AND PROPERTY FROM THE OFFICE
OF CULTURAL AFFAIRS TO THE CULTURAL AFFAIRS DEPARTMENT; MAKING
AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through
10 of this act may be cited as the "Cultural Affairs Department
Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Cultural Affairs Department Act is to create a single, unified
department to administer all laws and exercise all functions
formerly administered and executed by the office of cultural

1 affairs.

2 Section 3. ~~[NEW MATERIAL]~~ DEFINITIONS. -- As used in the
3 Cultural Affairs Department Act:

4 A. "department" means the cultural affairs
5 department; and

6 B. "secretary" means the secretary of cultural
7 affairs.

8 Section 4. ~~[NEW MATERIAL]~~ DEPARTMENT CREATED. -- The
9 "cultural affairs department" is created in the executive
10 branch. The department is a cabinet department and includes
11 the following divisions:

12 A. administrative services division;

13 B. arts division;

14 C. historic preservation division;

15 D. library division;

16 E. Hispanic cultural division;

17 F. farm and ranch heritage museum division;

18 G. natural history and science museum division;

19 H. museum of space history division;

20 I. museum services division; and

21 J. the following divisions that make up the museum of
22 New Mexico:

23 (1) palace of the governors state history museum
24 division;

25 (2) museum of fine art division;

- (3) museum of Indian arts and culture division;
- (4) museum of international folk art division;
- (5) archaeological services division; and
- (6) state monuments division.

Section 5. [NEW MATERIAL] SECRETARY. --

A. The chief executive and administrative officer of the department is the "secretary of cultural affairs". The secretary shall be appointed by the governor with the consent of the senate. The secretary shall hold the office at the pleasure of the governor and shall serve in the executive cabinet.

B. An appointed secretary shall serve and have all the duties, responsibilities and authority of that office during the period of time prior to final action by the senate confirming or rejecting the appointment.

Section 6. [NEW MATERIAL] SECRETARY-- DUTIES AND GENERAL POWERS. --

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which he or the department is charged.

B. To perform his duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary of the department, or any division of the department, except where authority conferred upon any division therein is

1 explicitly exempted from the secretary's authority by statute.

2 In accordance with these provisions, the secretary shall:

3 (1) except as otherwise provided in the Cultural
4 Affairs Department Act, exercise general supervisory and
5 appointing authority over all department employees, subject to
6 any applicable personnel laws and rules;

7 (2) delegate authority to subordinates as he
8 deems necessary and appropriate, clearly delineating such
9 delegated authority and the limitations thereto;

10 (3) organize the department into those
11 organizational units he deems will enable it to function most
12 efficiently, subject to any provisions of law requiring or
13 establishing specific organizational units;

14 (4) within the limitations of available
15 appropriations and applicable laws, employ and fix the
16 compensation of those persons necessary to discharge his
17 duties;

18 (5) take administrative action by issuing orders
19 and instructions, not inconsistent with the law, to ensure
20 implementation of and compliance with the provisions of law for
21 whose administration or execution the secretary is responsible,
22 and to enforce those orders and instructions by appropriate
23 administrative action or actions in the courts;

24 (6) conduct research and studies that will
25 improve the operations of the department and the provision of

1 services to the citizens of the state;

2 (7) provide courses of instruction and practical
3 training for employees of the department and other persons
4 involved in the administration of programs with the objective
5 of improving the operations and efficiency of the
6 administration;

7 (8) prepare an annual budget of the department;

8 (9) provide cooperation, at the request of heads
9 of administratively attached agencies, in order to:

10 (a) minimize or eliminate duplication of
11 services and jurisdictional conflicts;

12 (b) coordinate activities and resolve
13 problems of mutual concern; and

14 (c) resolve by agreement the manner and
15 extent to which the department shall provide budgeting,
16 record-keeping and related clerical assistance to
17 administratively attached agencies; and

18 (10) appoint, with the governor's consent, for
19 each division, a "director". These appointed positions are
20 exempt from the provisions of the Personnel Act. Persons
21 appointed to these positions shall serve at the pleasure of the
22 secretary.

23 C. The secretary may apply for and receive, with the
24 governor's approval, in the name of the department, any public
25 or private funds, including United States government funds,

1 available to the department to carry out its programs, duties
2 or services.

3 D. Where functions of departments overlap, or a
4 function assigned to one department could better be performed
5 by another department, a secretary may recommend appropriate
6 legislation to the next session of the legislature for its
7 approval.

8 E. The secretary may make and adopt such reasonable
9 procedural rules as may be necessary to carry out the duties of
10 the department and its divisions. A rule promulgated by the
11 director of a division in carrying out the functions and duties
12 of the division shall not be effective until approved by the
13 secretary. Unless otherwise provided by statute, a rule
14 affecting a person or agency outside the department shall not
15 be adopted, amended or repealed without a public hearing on the
16 proposed action before the secretary or a hearing officer
17 designated by him. The public hearing shall be held in Santa
18 Fe unless otherwise permitted by statute. Notice of the
19 subject matter of the rule, the action proposed to be taken,
20 the time and place of the hearing, the manner in which
21 interested persons may present their views and the method by
22 which copies of the proposed rule, proposed amendment or repeal
23 of an existing rule may be obtained shall be published once at
24 least thirty days prior to the hearing date in a newspaper of
25 general circulation and mailed at least thirty days prior to

1 the hearing date to all persons who have made a written request
2 for advance notice of hearing. All rules shall be filed in
3 accordance with the State Rules Act.

4 Section 7. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
5 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO
6 INFORMATION. --

7 A. Those organizational units of the department and
8 the officers of those units specified by law shall have all the
9 powers and duties enumerated in the specific laws involved.
10 However, the carrying out of those powers and duties shall be
11 subject to the direction and supervision of the secretary, who
12 shall retain the final decision-making authority and
13 responsibility for the administration of any such laws.

14 B. The department shall have access to all records,
15 data and information of other state departments that are not
16 specifically held confidential by law.

17 Section 8. [NEW MATERIAL] DIVISION DIRECTORS. -- Except as
18 otherwise provided by law, the secretary shall appoint, with
19 the approval of the governor, "directors" of divisions
20 established within the department. The directors so appointed
21 are exempt from the Personnel Act.

22 Section 9. [NEW MATERIAL] BUREAU CHIEFS. -- The secretary may
23 establish within each division such "bureaus" as he deems
24 necessary to carry out the provisions of the Cultural Affairs
25 Department Act. The secretary shall appoint a "chief" to be

1 the administrative head of a bureau. The chief and all
2 subsidiary employees of the department are covered by the
3 Personnel Act, unless otherwise provided by law.

4 Section 10. [NEW MATERIAL] ADMINISTRATIVE SERVICES
5 DIVISION--DUTIES. --The administrative services division shall
6 provide administrative services to the department, including:
7 A. keeping all official records of the department;
8 B. providing clerical services in the areas of
9 personnel and budget preparation; and
10 C. providing clerical, record-keeping and
11 administrative support to agencies administratively attached to
12 the department, at their request.

13 Section 11. Section 18-2-3 NMSA 1978 (being Laws 1977,
14 Chapter 246, Section 10, as amended) is amended to read:

15 "18-2-3. LIBRARY DIVISION--CREATION--DIRECTOR. --
16 A. The "library division" is created within the
17 [~~office of~~] cultural affairs department.
18 B. Subject to the authority of the [~~state~~] secretary
19 of cultural affairs [~~officer~~], the administrative and executive
20 head of the library division is the "state librarian". The
21 state librarian shall be appointed by the [~~state cultural~~
22 ~~affairs officer with the consent of the~~] secretary [~~of finance~~
23 ~~and administration~~]. "

24 Section 12. [NEW MATERIAL] MUSEUM SERVICES DIVISION. --The
25 "museum services division" is created within the cultural

1 affairs department. The museum services division shall provide
2 support in exhibitions, statewide education services,
3 publishing and other services requested by the museums or the
4 secretary.

5 Section 13. [NEW MATERIAL] MUSEUM OF FINE ART DIVISION
6 CREATED--LOCATION--BOARD OF REGENTS.--The "museum of fine art
7 division" is created in the cultural affairs department. The
8 museum of fine art located in Santa Fe shall be operated as a
9 division of the cultural affairs department under the
10 imprimatur of the museum of New Mexico. The museum of New
11 Mexico board of regents shall exercise trusteeship over the
12 museum of fine art.

13 Section 14. [NEW MATERIAL] PALACE OF THE GOVERNORS STATE
14 HISTORY MUSEUM DIVISION CREATED--LOCATION--BOARD OF REGENTS.--
15 The "palace of the governors state history museum division" is
16 created in the cultural affairs department. The palace of the
17 governors state history museum located in Santa Fe shall be
18 operated as a division of the cultural affairs department under
19 the imprimatur of the museum of New Mexico. The museum of New
20 Mexico board of regents shall exercise trusteeship over the
21 palace of the governors state history museum.

22 Section 15. [NEW MATERIAL] MUSEUM OF INTERNATIONAL FOLK ART
23 DIVISION CREATED--LOCATION--BOARD OF REGENTS.--The "museum of
24 international folk art division" is created in the cultural
25 affairs department. The museum of international folk art

1 located in Santa Fe shall be operated as a division of the
2 cultural affairs department under the imprimatur of the museum
3 of New Mexico. The museum of New Mexico board of regents shall
4 exercise trusteeship over the museum of international folk art.

5 Section 16. [NEW MATERIAL] MUSEUM OF INDIAN ARTS AND
6 CULTURE DIVISION CREATED-- LOCATION-- BOARD OF REGENTS. --The
7 "museum of Indian arts and culture division" is created in the
8 cultural affairs department. The museum of Indian arts and
9 culture located in Santa Fe shall be operated as a division of
10 the cultural affairs department under the imprimatur of the
11 museum of New Mexico. The museum of New Mexico board of
12 regents shall exercise trusteeship over the museum of Indian
13 arts and culture.

14 Section 17. [NEW MATERIAL] STATE MONUMENTS DIVISION
15 CREATED-- BOARD OF REGENTS. --

16 A. The "state monuments division" is created in the
17 cultural affairs department. The division shall manage the
18 state's monuments, including:

- 19 (1) Coronado state monument;
- 20 (2) Jemez state monument;
- 21 (3) Fort Selden state monument;
- 22 (4) Fort Sumner state monument;
- 23 (5) Lincoln state monument;
- 24 (6) el camino real international heritage
25 center; and

1 (7) Mesilla state monument.

2 B. The state monuments shall operate under the
3 imprimatur of the museum of New Mexico. The museum of New
4 Mexico board of regents shall exercise trusteeship over the
5 state monuments.

6 Section 18. [NEW MATERIAL] ARCHAEOLOGICAL SERVICES DIVISION
7 CREATED-- BOARD OF REGENTS. --

8 A. The "archaeological services division" is created
9 in the cultural affairs department. The division shall be
10 operated as a division of the cultural affairs department under
11 the imprimatur of the museum of New Mexico.

12 B. The museum of New Mexico board of regents shall
13 exercise trusteeship over the archaeological services division.

14 Section 19. Section 18-3-1 NMSA 1978 (being Laws 1975,
15 Chapter 264, Section 1, as amended) is amended to read:

16 "18-3-1. MUSEUM OF NEW MEXICO ESTABLISHED-- LOCATION--
17 PROPERTY. --

18 A. The "museum of New Mexico" is established. [~~It~~
19 ~~shall have headquarters in Santa Fe, New Mexico.~~] All
20 properties, real or personal, now held for museum purposes and
21 all properties, real or personal, which may be acquired for
22 museum purposes at any time in the future shall be under
23 the control of the [~~museum division of the office of~~] cultural
24 affairs department.

25 B. The museum of New Mexico consists of:

- 1 (1) the palace of the governors state history
2 museum;
3 (2) the museum of fine art;
4 (3) the museum of Indian arts and culture;
5 (4) the museum of international folk art;
6 (5) archaeological services; and
7 (6) the state monuments:
8 (a) Coronado state monument;
9 (b) Jemez state monument;
10 (c) Fort Selden state monument;
11 (d) Fort Sumner state monument;
12 (e) Lincoln state monument;
13 (f) el camino real international heritage
14 center; and
15 (g) Mesilla state monument."

16 Section 20. Section 18-3-8 NMSA 1978 (being Laws 1949,
17 Chapter 74, Section 1, as amended) is amended to read:

18 "18-3-8. LABORATORY OF ANTHROPOLOGY--ACCEPTANCE OF DEED AND
19 TITLE. --The state of New Mexico accepts the deed and bill of
20 sale and the title of the laboratory of anthropology building
21 and land described in the deed dated September 30, 1947 and
22 directs that the property become part of the museum of New
23 Mexico and be controlled and administered by the [~~museum~~
24 ~~division of the office of~~] cultural affairs department."

25 Section 21. Section 18-3A-3 NMSA 1978 (being Laws 1980,

Chapter 128, Section 3, as amended) is amended to read:

"18-3A-3. DEFINITIONS. --As used in the Natural History and Science Museum Act:

A. "board" means the board of trustees of the New Mexico museum of natural history and science;

B. "director" means the director of the ~~[natural history and science museum]~~ division ~~[of the office of cultural affairs or its successor agency]~~;

C. "division" means the natural history and science museum division of the ~~[office of]~~ cultural affairs ~~[or its successor agency]~~ department;

D. "museum" means the New Mexico museum of natural history and science;

E. "natural history" means that which pertains to the earth and its life, including but not limited to the fields of biology, geology and related life sciences; and

F. "physical science" means that which pertains to mathematics, physics, chemistry, astronomy and related sciences and technologies. "

Section 22. Section 18-3A-4 NMSA 1978 (being Laws 1980, Chapter 128, Section 4, as amended) is amended to read:

"18-3A-4. NATURAL HISTORY AND SCIENCE MUSEUM DIVISION-- CREATION-- LOCATION-- PROPERTY. --

A. The "natural history and science museum division" is created within the ~~[office of]~~ cultural affairs ~~[or its~~

1 ~~successor agency~~ department. The principal facility of this
2 division ~~[shall be known as]~~ is the "New Mexico museum of
3 natural history and science" ~~[and shall be]~~ located in
4 Albuquerque ~~[Bernalillo county, New Mexico]~~. The site shall be
5 held in the name of the state.

6 B. All property, real or personal, now held or
7 subsequently acquired for the operation of the museum shall be
8 under the control and authority of the board.

9 C. Funds or other property received by gift,
10 endowment or legacy shall remain under the control of the board
11 and shall, upon acceptance, be employed for the purpose
12 specified. "

13 Section 23. Section 18-3A-7 NMSA 1978 (being Laws 1987,
14 Chapter 38, Section 5) is amended to read:

15 "18-3A-7. BOARD--POWERS AND DUTIES. --The board shall:

16 A. exercise trusteeship over the collections of the
17 museum;

18 B. accept and hold title to all property for museum
19 use;

20 C. review annually the performance of the director
21 and report its findings to the ~~[state]~~ secretary of cultural
22 affairs ~~[officer]~~;

23 D. enter into agreements or contracts with private or
24 public organizations, agencies or individuals for the purpose
25 of obtaining real or personal property for museum use;

1 E. authorize the director to solicit and receive
2 funds or property of any nature for the development of the
3 museum, its collections and its programs;

4 F. adopt such ~~[regulations]~~ rules as may be necessary
5 to carry out the provisions of this section; and

6 G. establish museum policy and determine the mission
7 and direct the development of the institution subject to the
8 decision of the ~~[state cultural affairs officer or his~~
9 ~~successor]~~ secretary of cultural affairs in event of conflict
10 between the board and the ~~[office of]~~ cultural affairs ~~[or its~~
11 ~~successor agency]~~ department. "

12 Section 24. Section 18-4-6 NMSA 1978 (being Laws 1949,
13 Chapter 138, Section 5, as amended) is amended to read:

14 "18-4-6. LINCOLN MONUMENT--STATE MONUMENTS DIVISION-- POWERS
15 AND DUTIES. --The ~~[museum division of the office of]~~ state
16 monuments division of the cultural affairs department shall be
17 entrusted with the protection and preservation of the old
18 Lincoln county courthouse. The ~~[museum]~~ state monuments
19 division shall maintain and operate the monument as a memorial
20 and state museum of old Lincoln county, shall have power to
21 acquire and hold real estate in the name of the state and to
22 act in cooperation with the federal government or any of its
23 agencies in preserving the monument and shall have power to
24 accept gifts, grants and donations from any person, firm,
25 corporation, agency or any group of persons for the collections

1 of the museum or the maintenance and operation of the
2 monument. "

3 Section 25. Section 18-5-2 NMSA 1978 (being Laws 1978,
4 Chapter 70, Section 1, as amended) is amended to read:

5 "18-5-2. DEFINITIONS. -- As used in [~~Sections 18-5-2 through~~
6 ~~18-5-7~~] Chapter 18, Article 5 NMSA 1978:

7 A. "commi ssion" means the New Mexico arts commi ssion;

8 B. "creative arts" means the act of writing,
9 composing or designating and executing literature, including
10 poetry; drama; music, including opera and choral works; ballet
11 and [~~the~~] dance; painting; sculpturing; [~~the~~] graphic arts;
12 photography; crafts; architecture; and films and television;

13 C. "director" means the executive head of the
14 di vi sion;

15 D. "division" means the arts division of the [~~office~~
16 ~~of~~] cultural affairs department; and

17 E. "interpretative arts" means the act of
18 interpreting the creative arts, including designing,
19 publishing, printing and collecting of books; the producing,
20 directing and performing of dramas; the performing of music and
21 the producing, directing and performing of operas and choral
22 works; the producing, directing and performing of ballet and
23 dance; the conservation of architecture; and the producing,
24 directing and performing of films and television. "

25 Section 26. Section 18-5-6 NMSA 1978 (being Laws 1978,

Chapter 70, Section 5, as amended) is amended to read:

"18-5-6. DIVISION--CREATION--DIRECTOR--APPOINTMENT. --

A. The "arts division" is created within the [office
of] cultural affairs department.

B. Subject to the authority of the [state] secretary
of cultural affairs [officer], the administrative and executive
head of the arts division is the "director" of the arts
division. [~~With the secretary's consent~~] The director shall be
hired by the [~~state cultural affairs officer~~] secretary from a
list of three to five names supplied by the commission."

Section 27. Section 18-6-1 NMSA 1978 (being Laws 1969,
Chapter 223, Section 1, as amended) is amended to read:

"18-6-1. SHORT TITLE. -- [~~Sections 4-27-4 through 4-27-18~~
~~NMSA 1953~~] Sections 18-6-1 through 18-6-17 NMSA 1978 may be
cited as the "Cultural Properties Act". "

Section 28. Section 18-6-6 NMSA 1978 (being Laws 1969,
Chapter 223, Section 6, as amended) is amended to read:

"18-6-6. [~~MUSEUM DIVISION~~] CULTURAL AFFAIRS DEPARTMENT--
POWERS AND DUTIES RELATING TO THE CULTURAL PROPERTIES ACT
[~~DIRECTOR~~]. --

A. The [~~museum division of the office of~~] cultural
affairs department is responsible for administering, developing
and maintaining all registered cultural properties in its
ownership or custody.

B. Unless other locations are deemed more appropriate

1 by the committee, in consultation with the museum of New
2 Mexico, because of the nature of the property involved, the
3 ~~[museum division]~~ cultural affairs department shall be the
4 depository for all collections made under the provisions of the
5 Cultural Properties Act and shall make available material from
6 such collections to museums in and out of the state on the
7 request of the governing bodies of those museums when, in the
8 opinion of the ~~[director of the museum division]~~ department,
9 such use is appropriate and when arrangements are made for the
10 safe custodianship and public exhibition of the material in
11 accordance with ~~[museum division regulations]~~ department rules.
12 The museum of New Mexico shall maintain a record of the
13 location of all such collections.

14 C. The ~~[museum division]~~ cultural affairs department
15 may seek and accept gifts, donations and grants, subject to the
16 provisions of Subsection B of Section 18-6-7 NMSA 1978, to be
17 used to acquire, preserve or restore registered cultural
18 properties.

19 D. The ~~[museum division]~~ cultural affairs department
20 may acquire by gift, purchase or, if no other means of
21 acquisition are available, condemnation any cultural property
22 or interest therein sufficient to preserve such property.
23 Cultural properties so acquired shall be administered by the
24 ~~[museum division]~~ department or other appropriate state
25 agencies in accordance with Subsections A and B of this

1 section.

2 E. The [~~museum division~~] cultural affairs department
3 may enter into agreements with the committee to provide
4 assistance in carrying out the duties of the committee."

5 Section 29. Section 18-6-7 NMSA 1978 (being Laws 1969,
6 Chapter 223, Section 7, as amended) is amended to read:

7 "18-6-7. HISTORIC PRESERVATION DIVISION--PLANNING--FISCAL
8 ADMINISTRATION AND COOPERATION FOR PURPOSES OF THE CULTURAL
9 PROPERTIES ACT.--

10 A. The state historic preservation officer of the
11 historic preservation division of the [~~office of~~] cultural
12 affairs department shall, with the concurrence of the
13 committee, prepare a long-range plan for the preservation of
14 cultural properties, including but not limited to the
15 identification, acquisition, restoration and protection of
16 historic and cultural properties and [~~in cooperation with the~~
17 ~~museum division~~] the maintenance and expansion of statewide
18 historic and prehistoric site data bases.

19 B. The historic preservation division shall
20 administer funds [~~which~~] that are received, controlled and
21 disbursed for the purposes of the Cultural Properties Act,
22 unless such funds are specifically granted or appropriated to
23 another agency.

24 C. Consistent with the Cultural Properties Act, the
25 historic preservation division shall cooperate in all matters

1 with the committee and [~~the museum division~~] other divisions of
2 the [~~office of~~] cultural affairs department. "

3 Section 30. Section 18-6-8 NMSA 1978 (being Laws 1977,
4 Chapter 246, Section 38, as amended) is amended to read:

5 "18-6-8. STATE HISTORIC PRESERVATION OFFICER--APPOINTMENT--
6 QUALIFICATIONS--DUTIES. --

7 A. The "historic preservation division" is created
8 within the [~~office of~~] cultural affairs department.

9 B. The state historic preservation officer shall be
10 the director of the division and shall be hired by the [~~state~~]
11 secretary of cultural affairs [~~officer~~] with the consent of the
12 governor. The position's qualifications shall be consistent
13 with but not limited to the following:

14 (1) a graduate degree in American history,
15 anthropology, architecture or historic preservation; [~~or~~]

16 (2) at least five years of professional
17 experience in American history, anthropology, architecture or
18 historic preservation or any combination of these; or

19 (3) a substantial contribution through research
20 and publication to the body of scholarly knowledge in the field
21 of American history, anthropology, architecture or historic
22 preservation or any combination of these.

23 C. The state historic preservation officer shall
24 administer the Cultural Properties Act, including but not
25 limited to being administrative head of all Cultural Properties

1 Act functions assigned to the historic preservation division by
2 law or executive order. In addition, the state historic
3 preservation officer shall coordinate all duties performed by,
4 and cooperate with, the committee, [~~the museum division~~] the
5 secretary of cultural affairs and any other entities, public or
6 private, involved with cultural properties.

7 D. The state historic preservation officer, in
8 conjunction with the [~~state~~] secretary of cultural affairs
9 [~~officer~~]:

10 (1) shall provide staff to the [~~cultural~~
11 ~~properties review~~] committee;

12 (2) shall maintain the state register of
13 cultural properties;

14 (3) may fund historic site surveys and may fund
15 restorations;

16 (4) shall administer historic preservation tax
17 benefit programs; and

18 (5) shall review state undertakings to determine
19 their effect upon significant historic properties. "

20 Section 31. Section 18-6-15 NMSA 1978 (being Laws 1969,
21 Chapter 223, Section 13, as amended) is amended to read:

22 "18-6-15. STATE ARCHAEOLOGIST. --The state archaeologist in
23 the [~~office of~~] cultural affairs department is designated as
24 "state archaeologist" for the purposes of the Cultural
25 Properties Act. The state archaeologist shall be

1 professionally recognized in the discipline of archaeology,
2 shall have achieved recognition for accomplishments in his
3 field in the American southwest and shall have a specialized
4 knowledge of New Mexico. "

5 Section 32. Section 18-6-16 NMSA 1978 (being Laws 1978,
6 Chapter 53, Section 1, as amended) is amended to read:

7 "18-6-16. PREPARATION AND SALE OF CULTURAL PROPERTIES
8 PUBLICATIONS--REVOLVING FUND--REPORT. --The historic
9 preservation division [~~of the office of cultural affairs~~] shall
10 encourage and promote publications relating to cultural
11 properties [~~which~~] that have been prepared pursuant to the
12 Cultural Properties Act. The historic preservation division
13 may prepare or contract for the preparation of such
14 publications on the condition that it receives from the sale of
15 [~~such~~] the publications the amount expended plus interest on
16 that amount compounded annually at the prime lending rate
17 quoted in the Wall Street Journal on the effective date of the
18 contract until the expended amount is reimbursed in full to the
19 division. All receipts from such sales shall go into a special
20 revolving fund, which is hereby established. The historic
21 preservation division shall adopt [~~regulations~~] rules
22 establishing guidelines and fiscal controls over the use of the
23 revolving fund. "

24 Section 33. Section 18-6-20 NMSA 1978 (being Laws 1987,
25 Chapter 7, Section 3) is amended to read:

1 "18-6-20. DEFINITIONS. --As used in the Historic
2 Preservation Loan Act:

3 A. "committee" means the cultural properties review
4 committee;

5 B. "division" means the historic preservation
6 division of the ~~[office of]~~ cultural affairs department;

7 C. "fund" means the historic preservation loan fund;

8 D. "property owner" means the sole owner, joint
9 owner, owner in partnership or corporate owner of a registered
10 cultural property. As used in this subsection, the term
11 "property owner" includes the owner of a leasehold interest in
12 a registered cultural property, if the term of the lease is not
13 less than nineteen years; and

14 E. "registered cultural property" means ~~[any]~~ a site,
15 structure, building or object entered in the state register of
16 cultural properties or the national register of historic places
17 or both. "

18 Section 34. Section 18-6A-1 NMSA 1978 (being Laws 1993,
19 Chapter 176, Section 1) is amended to read:

20 "18-6A-1. SHORT TITLE. -- ~~[Sections 1 through 6 of this act]~~
21 Chapter 18, Article 6A NMSA 1978 may be cited as the "Cultural
22 Properties Protection Act". "

23 Section 35. Section 18-6A-2 NMSA 1978 (being Laws 1993,
24 Chapter 176, Section 2) is amended to read:

25 "18-6A-2. DEFINITIONS. --As used in the Cultural Properties
. 148492. 1

Protection Act:

A. "committee" means the cultural properties review committee;

B. "cultural property" means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance;

C. "division" means the historic preservation division of the ~~[office of]~~ cultural affairs department;

D. "fund" means the cultural properties restoration fund;

E. "interpretation" means the inventory, registration, mapping and analysis of cultural properties and public educational programs designed to prevent the loss of cultural properties;

F. "officer" means the state historic preservation officer;

G. "preservation" means sustaining the existing form, integrity and material of a cultural property or the existing form and vegetative cover of a cultural property and may include protective maintenance or stabilization where necessary in the case of archaeological sites;

H. "professional survey" means an archaeological or architectural survey;

I. "protection" means safeguarding the physical condition or environment of a cultural property from

1 deterioration or damage caused by weather or other natural,
2 animal or human intrusions;

3 J. "restoration" means recovering the general
4 historic appearance of a cultural property or the form and
5 details of an object or structure by removing incompatible
6 natural or human-caused accretions and replacing missing
7 elements as appropriate;

8 K. "stabilization" means reestablishing the
9 structural stability or weather-resistant condition of a
10 cultural property or arresting deterioration that may lead to
11 structural failure;

12 L. "state agency" means a department, agency,
13 institution or political subdivision of the state; and

14 M. "state land" means property owned, controlled or
15 operated by a state agency. "

16 Section 36. Section 18-7-1 NMSA 1978 (being Laws 1978,
17 Chapter 72, Section 1, as amended by Laws 2001, Chapter 275,
18 Section 2 and by Laws 2001, Chapter 278, Section 2) is amended
19 to read:

20 "18-7-1. ~~[NEW MEXICO]~~ MUSEUM OF SPACE HISTORY DIVISION--
21 CREATION. -- ~~[There is created within the office of cultural~~
22 ~~affairs]~~ The "[~~New Mexico~~] museum of space history division" is
23 created within the cultural affairs department. The principal
24 facility of the division is the "museum of space history"
25 located in Alamogordo. The site shall be held in the name of

1 the state. "

2 Section 37. Section 18-7-3 NMSA 1978 (being Laws 1978,
3 Chapter 72, Section 3, as amended by Laws 2001, Chapter 275,
4 Section 4 and by Laws 2001, Chapter 278, Section 4) is amended
5 to read:

6 "18-7-3. COMMISSION-- ~~[DIRECTOR]~~ POWERS-- DUTIES. -- The [New
7 Mexico] museum of space history commission ~~[of the office of~~
8 ~~cultural affairs]~~ shall construct, maintain and operate the
9 [New Mexico] museum of space history for the benefit of the
10 people of New Mexico, the nation and the world as an
11 educational project interpreting man's conquest of space. ~~[The~~
12 ~~commission shall establish policy for the general operation of~~
13 ~~the New Mexico museum of space history division.]~~ The director
14 of ~~[that]~~ the division, under the supervision of the
15 commission, shall:

16 A. collect and preserve objects relating to the
17 history of rocketry, space flight, astronomy and related
18 fields;

19 B. conduct research programs necessary to document
20 the historical, scientific and technological advances of
21 rocketry, space flight, astronomy and related fields;

22 C. disseminate the results of division research
23 efforts through exhibits, public programs, publications and
24 other methods deemed appropriate by the commission;

25 D. establish educational programs relating to space;

1 E. purchase supplies and necessary equipment and
2 tools;

3 F. accept for the [New Mexico] museum [~~of space~~
4 ~~history~~] any federal matching funds or grants available for
5 this project and related programs;

6 G. accept donations and bequests from individuals and
7 entities for the [New Mexico] museum [~~of space history~~] and
8 related programs;

9 H. acquire real and personal property in the name of
10 the state for the [New Mexico] museum [~~of space history~~];

11 I. employ and discharge personnel necessary for the
12 operation of the [New Mexico] museum [~~of space history~~];

13 J. prepare budgets for operation and capital
14 improvements;

15 K. assume other duties and responsibilities as deemed
16 necessary by the [New Mexico museum of space history]
17 commission;

18 L. assume responsibility for new and related
19 facilities as required; and

20 M. subject to the provisions of Section 18-7-3.1 NMSA
21 1978, impose admission fees to the museum facilities and
22 programs. "

23 Section 38. Section 18-7-4 NMSA 1978 (being Laws 1978,
24 Chapter 72, Section 4, as amended by Laws 2001, Chapter 275,
25 Section 5 and by Laws 2001, Chapter 278, Section 5) is amended

1 to read:

2 "18-7-4. DIRECTOR--EMPLOYMENT.--The director of the [New
3 Mexico] museum of space history division shall be hired by the
4 [New Mexico museum of space history commission, subject to
5 approval by the state] secretary of cultural affairs [officer
6 and with the consent of the secretary of finance and
7 administration. The director of the division may be discharged
8 from employment by the commission for failure to perform his
9 duties or follow the policies set forth by the commission]. "

10 Section 39. Section 18-8-3 NMSA 1978 (being Laws 1989,
11 Chapter 13, Section 3) is amended to read:

12 "18-8-3. DEFINITIONS.--As used in the New Mexico
13 Prehistoric and Historic Sites Preservation Act:

14 A. "corporation" means a nonprofit corporation,
15 formally recognized as tax exempt under Section 501(c)3 of the
16 Internal Revenue Code of 1986, whose declared purposes include
17 the investigation, preservation or conservation of significant
18 prehistoric or historic sites;

19 B. "division" means the historic preservation
20 division of the [office of] cultural affairs department; and

21 C. "significant prehistoric or historic sites" [mean]
22 means properties listed in the state register of cultural
23 properties or national register of historic places. "

24 Section 40. Section 18-11-1 NMSA 1978 (being Laws 1991,
25 Chapter 48, Section 1) is amended to read:

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1 "18-11-1. SHORT TITLE. -- [~~Sections 1 through 9 of this act~~]
2 Chapter 18, Article 11 NMSA 1978 may be cited as the "Farm and
3 Ranch Heritage Museum Act". "

4 Section 41. Section 18-11-2 NMSA 1978 (being Laws 1991,
5 Chapter 48, Section 2) is amended to read:

6 "18-11-2. DECLARATION AND PURPOSE OF ACT. -- The legislature
7 [~~of New Mexico~~] declares that the farming and ranching industry
8 of the state has produced a unique common heritage of which all
9 persons should receive knowledge and benefit. The purpose of
10 the Farm and Ranch Heritage Museum Act is to create a [~~New~~
11 ~~Mexico~~] farm and ranch heritage museum [~~division of the office~~
12 ~~of cultural affairs~~], which shall collect, preserve, study and
13 display materials representative of the farming and ranching of
14 the state and region and develop and maintain exhibits and
15 programs of an educational nature for the benefit of the
16 citizens of New Mexico and visitors to the state. "

17 Section 42. Section 18-11-3 NMSA 1978 (being Laws 1991,
18 Chapter 48, Section 3) is amended to read:

19 "18-11-3. DEFINITIONS. -- As used in the Farm and Ranch
20 Heritage Museum Act:

21 A. "board" means the [~~governing board of the~~
22 ~~division~~] board of the farm and ranch heritage museum;

23 B. "director" means the director of the division;

24 C. "division" means the [~~New Mexico~~] farm and ranch
25 heritage museum division of the [~~office of~~] cultural affairs

1 ~~[or its successor agency]~~ department;

2 D. "farm and ranch" means that which pertains to the
3 field of agriculture and the various industries that affect
4 agriculture, including but not limited to agronomy, livestock
5 management, veterinary medicine, agricultural nutrition and
6 other related agricultural businesses and sciences; and

7 E. "museum" means the principal facility of the
8 division, including all real and personal property of the
9 division. "

10 Section 43. Section 18-11-4 NMSA 1978 (being Laws 1991,
11 Chapter 48, Section 4) is amended to read:

12 "18-11-4. DIVISION CREATED-- OPERATION-- LOCATION-- PROPERTY. -
13 -

14 A. The "[~~New Mexico~~] farm and ranch heritage museum
15 division" is created within the [~~office of~~] cultural affairs
16 ~~[or its successor agency]~~ department.

17 B. The [~~principal facility of the division shall be~~
18 ~~known as the "New Mexico~~] "farm and ranch heritage museum"
19 [~~and~~] shall be located on the campus of New Mexico state
20 university in Dona Ana county.

21 C. All property, real or personal, now held or
22 subsequently acquired for the operation of the museum shall be
23 under the control and authority of the [~~office of~~] cultural
24 affairs department.

25 D. Funds or other property received by gift,

1 endowment or legacy shall remain under the control of the
2 [~~office of~~] cultural affairs department and shall, upon
3 acceptance, be employed for the purpose specified. "

4 Section 44. Section 18-11-5 NMSA 1978 (being Laws 1991,
5 Chapter 48, Section 5) is amended to read:

6 "18-11-5. BOARD CREATED--APPOINTMENT--TERMS--OFFICERS. --

7 A. The "board of the [~~New Mexico~~] farm and ranch
8 heritage museum [~~division~~]" is created.

9 B. The board shall consist of one nonvoting member
10 and eleven voting members who are residents of New Mexico, as
11 follows:

12 (1) eight members shall be appointed by the
13 governor with the advice and consent of the senate. Five of
14 those eight members shall be farmers or ranchers and three
15 members shall be from the general public. The five farmer and
16 rancher members of the original board shall be appointed from a
17 list of eight names submitted by the board of directors of the
18 New Mexico farm and ranch heritage institute foundation,
19 incorporated, from a list of [~~individuals~~] persons recommended
20 by farm and ranch organizations. When a vacancy occurs in any
21 of the five farmer and rancher positions, two names shall be
22 submitted to the governor by the board for each vacancy from a
23 list of [~~individuals~~] persons recommended by farm and ranch
24 organizations. No more than four of the eight appointed
25 members shall be from the same political party. In making

1 these appointments, due consideration shall be given to the
2 distribution of places of residence and to individual interests
3 and backgrounds in farming and ranching. Initially, two
4 members shall be appointed for terms of two years, three
5 members shall be appointed for terms of three years and three
6 members shall be appointed for terms of four years.

7 Thereafter, members of the board shall be appointed for terms
8 of four years or less so that the staggered expiration dates
9 are maintained;

10 (2) [~~one member from each of~~] the following
11 [~~organizations~~] shall have [~~a~~] permanent [~~seat~~] seats on the
12 board:

13 (a) the director of the New Mexico
14 department of agriculture or his designee;

15 (b) the dean of the college of agriculture
16 and home economics of New Mexico state university or his
17 designee; and

18 (c) the [~~state~~] secretary of cultural
19 affairs [~~officer~~] or his designee; and

20 (3) the director shall be a nonvoting member of
21 the board.

22 C. A member of the board shall not be removed during
23 his term except for misconduct, incompetence, neglect of duty
24 or malfeasance in office. No removal shall be made without
25 prior approval of the senate.

1 D. The chairman of the board and other officers, as
2 deemed necessary by the board, shall be elected by the board
3 annually at its first scheduled meeting after July 1. "

4 Section 45. Section 18-11-7 NMSA 1978 (being Laws 1991,
5 Chapter 48, Section 7) is amended to read:

6 "18-11-7. BOARD--POWERS AND DUTIES. --The board shall:

7 A. establish museum policy and determine the mission
8 and direct the development of the museum subject to the
9 approval of the [~~state~~] secretary of cultural affairs
10 [~~officer~~];

11 B. adopt [~~regulations~~] rules that may be necessary to
12 carry out the provisions of this section;

13 C. exercise trusteeship over the collections of the
14 museum;

15 D. accept and hold title to all property for museum
16 use;

17 E. approve contracts or agreements that the division
18 may enter into with private or public organizations,
19 institutions, agencies or individuals to carry out the purposes
20 of the Farm and Ranch Heritage Museum Act;

21 F. authorize the director to solicit and receive
22 funds or property of any nature for the development of the
23 museum, its collections and its programs; and

24 G. review annually the performance of the director
25 and report its findings to the [~~state cultural affairs officer~~]

1 secretary of cultural affairs. "

2 Section 46. Section 18-11-9 NMSA 1978 (being Laws 1991,
3 Chapter 48, Section 9) is amended to read:

4 "18-11-9. DIRECTOR--POWERS AND DUTIES.--Consistent with the
5 policies agreed to by the board and the [~~state~~] secretary of
6 cultural affairs [~~officer~~], the director:

7 A. shall be responsible for the administration and
8 operation of the museum in accordance with the applicable
9 statutes and [~~regulations~~] rules;

10 B. shall develop exhibits and programs of an
11 educational nature for the benefit of the public and in
12 particular the students of schools of the state;

13 C. shall acquire, as authorized by the board, in the
14 name of the [~~division~~] state, through donation or other means,
15 both real and personal property, including artifacts,
16 collections and related materials appropriate to a farm and
17 ranch museum and shall direct field and laboratory research as
18 is appropriate to render the collections beneficial to the
19 scientific community and to the public;

20 D. may solicit and receive funds or property of any
21 nature, including federal funds and public and private grants,
22 for the development of the museum, its collections or its
23 programs;

24 E. may enter into contracts with public or private
25 organizations, individuals or agencies for the performance of

1 services related to the location, preservation, development,
2 study or salvage of historical agricultural sites or materials;

3 F. shall cooperate with institutions of higher
4 learning and other agencies and political subdivisions of
5 municipal, state and federal governments to establish, maintain
6 and extend the programs of the museum;

7 G. shall employ and discharge personnel necessary for
8 the operation of the museum in accordance with the provisions
9 set forth in the Personnel Act;

10 H. shall assume responsibility for new and related
11 facilities as required by the division;

12 I. may, as authorized by the board, lend collections
13 or materials to qualified institutions and agencies for
14 purposes of exhibition and study and borrow collections or
15 materials from other institutions and agencies for like
16 ~~[purpose]~~ purposes;

17 J. shall impose and collect admission fees and
18 conduct such retail sales as are normal for the operation of
19 the museum;

20 K. may publish such journals, books, reports and
21 other materials as are appropriate to the operation of the
22 museum; and

23 L. shall perform such other appropriate duties as may
24 be delegated by the board or as may be provided by law. "

25 Section 47. Section 18-12-2 NMSA 1978 (being Laws 1993,

Chapter 42, Section 2, as amended) is amended to read:

"18-12-2. DEFINITIONS. --As used in the National Hispanic Cultural Center Act:

A. "board" means the board of directors of the center;

B. "center" means the national Hispanic cultural center;

C. "division" means the Hispanic cultural division of the ~~[office of]~~ cultural affairs department; and

D. "~~[executive]~~ director" means the ~~[executive]~~ director of the division. "

Section 48. Section 18-12-3 NMSA 1978 (being Laws 1993, Chapter 42, Section 3, as amended) is amended to read:

"18-12-3. HISPANIC CULTURAL DIVISION--CREATION--PROPERTY. --

A. The "Hispanic cultural division" is created within the ~~[office of]~~ cultural affairs department. ~~[A]~~ The principal facility of this division shall be known as the "national Hispanic cultural center".

B. All property, real or personal, now held or subsequently acquired for the operation of the center shall be under the control and authority of the board.

C. Funds or other property received by gift, endowment or legacy shall remain under the control of the board and shall, upon acceptance, be employed for the purpose specified. "

1 Section 49. Section 18-12-5 NMSA 1978 (being Laws 1993,
2 Chapter 42, Section 5) is amended to read:

3 "18-12-5. BOARD--POWERS AND DUTIES. --The board shall:
4 A. exercise trusteeship over the collections of the
5 center;
6 B. accept and hold title to all property for the
7 center's use;
8 C. review annually the performance of the [~~executive~~]
9 director and report its findings to the [~~state~~] secretary of
10 cultural affairs [~~officer~~];
11 D. enter into agreements or contracts with private or
12 public organizations, agencies or individuals for the purpose
13 of obtaining real or personal property for the center's use;
14 E. authorize the [~~executive~~] director to solicit and
15 receive funds or property of any nature for the development of
16 the center, its collections and its programs;
17 F. adopt such [~~regulations~~] rules as may be necessary
18 to carry out the provisions of the [~~New Mexico~~] National
19 Hispanic Cultural Center Act; and
20 G. establish policy, determine the mission and direct
21 the development of the center. "

22 Section 50. Section 18-12-7 NMSA 1978 (being Laws 1993,
23 Chapter 42, Section 7) is amended to read:

24 "18-12-7. [~~EXECUTIVE~~] DIRECTOR--POWERS AND DUTIES. --Subject
25 to the policies agreed to by the board, the [~~executive~~]

1 director:

2 A. shall be responsible for the [~~administration of~~
3 ~~the division and for the~~] operation of the center, in
4 accordance with all appropriate statutes and [~~regulations~~]
5 rules;

6 B. shall develop exhibits and programs displaying
7 Hispanic culture, arts and humanities for the benefit of the
8 public and with particular concern for the interests of the
9 schools of the state;

10 C. shall acquire by donation or other means of
11 acquisition collections and related materials appropriate to an
12 Hispanic cultural center and shall direct research as is
13 appropriate to render the collections of benefit to the public;

14 D. shall employ such professional staff and other
15 employees as are necessary to the operation of the center in
16 accordance with the provisions of the Personnel Act;

17 E. may solicit and receive funds or property of any
18 nature for the development of the center;

19 F. may enter into contracts with public or private
20 organizations, individuals or agencies for the performance of
21 services related to the location, preservation, development,
22 study or salvage of Hispanic cultural materials;

23 G. shall cooperate with institutions of higher
24 education and other agencies and political subdivisions of
25 municipal, state and federal governments to establish, maintain

1 and extend the programs of the center;

2 H. may, as authorized by the board, lend collection
3 materials to qualified institutions and agencies for purposes
4 of exhibition and study and borrow collection materials from
5 other institutions and agencies for the same purpose;

6 I. shall impose and collect admission fees and
7 conduct retail sales as are normal for the operation of the
8 center;

9 J. may publish journals, books, reports and other
10 materials as are appropriate to the operation of the center;
11 and

12 K. shall perform other appropriate duties as may be
13 delegated by the governor, the [state] secretary of cultural
14 affairs [~~officer or a successor~~] or the board or as may be
15 provided by law. "

16 Section 51. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
17 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW. --

18 A. The transfer of functions, personnel,
19 appropriations, money, records, equipment, supplies, other
20 property and contractual obligations of the office of cultural
21 affairs to the cultural affairs department pursuant to
22 executive order issued in accordance with Laws 2003, Chapter
23 403 is approved.

24 B. All references in law to the office of cultural
25 affairs shall be deemed to be references to the cultural

BILL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE SUBCOMMITTEE ON REORGANIZATION

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE AGING AND
LONG-TERM CARE DEPARTMENT; PROVIDING POWERS AND DUTIES;
PROVIDING FOR A PHASED TRANSITION TO THE NEW DEPARTMENT;
APPROVING TRANSFERS OF FUNCTIONS, PERSONNEL, MONEY,
APPROPRIATIONS AND PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through
10 of this act may be cited as the "Aging and Long-Term Care
Department Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the
Aging and Long-Term Care Department Act is to create a single,
unified department to administer all laws and exercise all
functions formerly administered by the state agency on aging
and to administer laws and exercise functions of the human

1 services department, the department of health and the children,
2 youth and families department that relate to aging, adults with
3 disabilities or long-term care services.

4 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the
5 Aging and Long-Term Care Department Act:

6 A. "department" means the aging and long-term care
7 department; and

8 B. "secretary" means the secretary of the aging and
9 long-term care department.

10 Section 4. [NEW MATERIAL] DEPARTMENT CREATED--
11 DIVISIONS. --

12 A. The "aging and long-term care department" is
13 created. The department is a cabinet department and includes
14 the following divisions:

- 15 (1) administrative services division;
16 (2) consumer and elder rights division;
17 (3) aging network services division;
18 (4) long-term care division; and
19 (5) adult protective services division.

20 B. The secretary may organize the department and the
21 divisions specified in Subsection A of this section and may
22 transfer or merge functions between divisions in the interest
23 of efficiency and economy.

24 Section 5. [NEW MATERIAL] SECRETARY OF AGING AND LONG-TERM
25 CARE-- APPOINTMENT. --

1 A. The chief executive and administrative officer of
2 the department is the "secretary of aging and long-term care".
3 The secretary shall be appointed by the governor with the
4 consent of the senate. The secretary shall hold that office at
5 the pleasure of the governor and shall serve in the executive
6 cabinet.

7 B. An appointed secretary shall serve and have all of
8 the duties, responsibilities and authority of that office
9 during the period of time prior to final action by the senate
10 confirming or rejecting his appointment.

11 Section 6. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL
12 POWERS. --

13 A. The secretary is responsible to the governor for
14 the operation of the department. It is his duty to manage all
15 operations of the department and to administer and enforce the
16 laws with which he or the department is charged.

17 B. To perform his duties, the secretary has every
18 power expressly enumerated in the laws, whether granted to the
19 secretary or the department or any division of the department,
20 except where authority conferred upon any division is
21 explicitly exempted from the secretary's authority by statute.
22 In accordance with these provisions, the secretary shall:

23 (1) except as otherwise provided in the Aging
24 and Long-Term Care Department Act, exercise general supervisory
25 and appointing authority over all department employees, subject

1 to any applicable personnel laws and regulations;

2 (2) delegate authority to subordinates as he
3 deems necessary and appropriate, clearly delineating such
4 delegated authority and the limitations thereto;

5 (3) organize the department into those
6 organizational units he deems will enable it to function most
7 efficiently, subject to provisions of law requiring or
8 establishing specific organizational units;

9 (4) within the limitations of available
10 appropriations and applicable laws, employ and fix the
11 compensation of those persons necessary to discharge his
12 duties;

13 (5) take administrative action by issuing orders
14 and instructions, not inconsistent with the law, to ensure
15 implementation of and compliance with the provisions of law for
16 whose administration or execution he is responsible and to
17 enforce those orders and instructions by appropriate
18 administrative action in the courts;

19 (6) conduct research and studies that will
20 improve the operations of the department and the provision of
21 services to the citizens of the state;

22 (7) provide courses of instruction and practical
23 training for employees of the department and other persons
24 involved in the administration of programs with the objective
25 of improving the operations and efficiency of administration;

- 1 (8) prepare an annual budget of the department;
2 (9) provide cooperation, at the request of heads
3 of administratively attached agencies, in order to:
4 (a) minimize or eliminate duplication of
5 services and jurisdictional conflicts;
6 (b) coordinate activities and resolve
7 problems of mutual concern; and
8 (c) resolve by agreement the manner and
9 extent to which the department shall provide budgeting,
10 record-keeping and related clerical assistance to
11 administratively attached agencies; and
12 (10) appoint, with the governor's consent, for
13 each division, a "director". These appointed positions are
14 exempt from the provisions of the Personnel Act. Persons
15 appointed to these positions shall serve at the pleasure of the
16 secretary.
- 17 C. The secretary may apply for and receive, with the
18 governor's approval, in the name of the department, any public
19 or private funds, including United States government funds,
20 available to the department to carry out its programs, duties
21 or services.
- 22 D. Where functions of departments overlap or a
23 function assigned to one department could better be performed
24 by another department, the secretary may recommend appropriate
25 legislation to the next session of the legislature for its

1 approval.

2 E. The secretary may make and adopt such reasonable
3 procedural rules as may be necessary to carry out the duties of
4 the department and its divisions. No rule promulgated by the
5 director of any division in carrying out the functions and
6 duties of the division shall be effective until approved by the
7 secretary unless otherwise provided by statute. Unless
8 otherwise provided by statute, no rule affecting any person or
9 agency outside the department shall be adopted, amended or
10 repealed without a public hearing on the proposed action before
11 the secretary or a hearing officer designated by him. The
12 public hearing shall be held in Santa Fe unless otherwise
13 permitted by statute. Notice of the subject matter of the
14 rule, the action proposed to be taken, the time and place of
15 the hearing, the manner in which interested persons may present
16 their views and the method by which copies of the proposed
17 rule, proposed amendment or repeal of an existing rule may be
18 obtained shall be published once at least thirty days prior to
19 the hearing date in a newspaper of general circulation and
20 mailed at least thirty days prior to the hearing date to all
21 persons who have made a written request for advance notice of
22 hearing. Rules shall be filed in accordance with the State
23 Rules Act.

24 Section 7. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
25 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO

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1 INFORMATION. -- Those organizational units of the department and
2 the officers of those units specified by law shall have all of
3 the powers and duties enumerated in the specific laws involved.
4 However, the carrying out of those powers and duties shall be
5 subject to the direction and supervision of the secretary, who
6 shall retain the final decision-making authority and
7 responsibility for the administration of any such laws as
8 provided in Subsection B of Section 6 of the Aging and
9 Long-Term Care Act. The department shall have access to all
10 records, data and information of other state departments,
11 agencies and institutions, including its own organizational
12 units, not specifically held confidential by law.

13 Section 8. [NEW MATERIAL] DIVISION DIRECTORS. -- Except as
14 otherwise provided by law, the secretary shall employ
15 "directors" of divisions established in the department. The
16 directors so appointed are exempt from the Personnel Act.

17 Section 9. [NEW MATERIAL] BUREAUS--CHIEFS. -- The secretary
18 may establish in the divisions such bureaus as he deems
19 necessary to carry out the provisions of the Aging and
20 Long-Term Care Department Act. He shall employ a "chief" to be
21 the administrative head of a bureau.

22 Section 10. [NEW MATERIAL] OFFICE OF INDIAN ELDER AFFAIRS
23 CREATED. -- The "office of Indian elder affairs" is created
24 within the office of the secretary. The office of Indian elder
25 affairs shall assume the responsibilities of the Indian area

1 agency on aging, including contract management, program
2 compliance monitoring, technical assistance, advocacy and
3 training to pueblo and Apache tribe Older Americans Act of 1965
4 Title 3 programs, and to establish relationships that support
5 the efforts of the Navajo area agency on aging. Abolishment or
6 transfer of the office of Indian elder affairs out of the
7 department shall require approval of the legislature.

8 Section 11. Section 9-8-8 NMSA 1978 (being Laws 1977,
9 Chapter 252, Section 9, as amended) is amended to read:

10 "9-8-8. ADMINISTRATIVELY ATTACHED AGENCIES. -- The [~~office of~~
11 ~~Indian affairs, the~~] commission on the status of women [~~and the~~
12 ~~state agency on aging are~~] is administratively attached to the
13 human services department in accordance with the Executive
14 Reorganization Act. "

15 Section 12. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
16 PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW. --

17 A. The transfer of functions, personnel,
18 appropriations, money, records, equipment, supplies, other
19 property and contractual obligations of the state agency on
20 aging to the aging and long-term care department pursuant to
21 executive order issued in accordance with Laws 2003, Chapter
22 403 is approved. All references in law to the state agency on
23 aging shall be deemed to be references to the aging and
24 long-term care department.

25 B. It is the intent of the legislature that

1 consolidation of state services and programs into the aging and
2 long-term care department be accomplished as quickly as
3 practicable as follows:

4 (1) the functions of the traumatic brain injury
5 program that was administered by the department of health shall
6 be transferred to the aging and long-term care department by
7 July 1, 2004;

8 (2) the functions of the home- and
9 community-based medicaid waiver program for the disabled and
10 elderly, the medicaid centralized screening and intake services
11 program, the medicaid personal care option program, the program
12 of all-inclusive care for the elderly and other home- and
13 community-based long-term care programs that serve seniors or
14 adults with disabilities that were administered by the human
15 services department shall be transferred to the aging and
16 long-term care department by no later than January 1, 2005; and

17 (3) the functions of the adult protective
18 services, adult day care, attendant care and other home- and
19 community-based long-term care programs that serve seniors or
20 adults with disabilities that were administered by the
21 children, youth and families department shall be transferred to
22 the aging and long-term care department by no later than
23 January 1, 2006.

24 C. At the time of transfer of an agency or program,
25 all personnel, money, appropriations, records, files,

1 furniture, equipment and other property related to that agency
2 or program shall be transferred to the aging and long-term care
3 department. The governor's office and the state budget
4 division of the department of finance and administration shall
5 assist in the identification of personnel, money,
6 appropriations and property to be transferred. Contractual and
7 other obligations of an agency or program shall be obligations
8 of the aging and long-term care department.

9 D. After the effective date of the transfers provided
10 in Subsection B of this section, references in law to the
11 programs being transferred shall be deemed to be references to
12 the aging and long-term care department.

13 E. The secretary of aging and long-term care shall
14 provide periodic updates to the legislative finance committee
15 and the legislative health and human services committee on the
16 progress of the transition and integration plan and the
17 establishment of the aging and long-term care department. By
18 November 1, 2005, the secretary shall provide the legislative
19 health and human services committee with a comprehensive plan
20 to provide long-term care and related services for all
21 populations, including recommendations, if any, for the
22 transfer of additional long-term care programs from other
23 departments to the aging and long-term care department. Such
24 plan shall be developed with public input from consumers,
25 advocacy organizations, providers, other departments and

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